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.

LBD12574-02-9

(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 subdivison 1 of section 1399-cc of the public health law relating to the definitions of nicotine, electronic liquid and e-liquid (Part UU); relating to constituting a new chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of cannabis; to amend the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; to amend the tax law, in relation to providing for the levying taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to repeal sections 221.10 and 221.30 of the penal law relating to the criminal possession and sale of cannabis; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; and making an appropriation therefor (Part VV); 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

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

PART A

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

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

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

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

§ 5. 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, as amended by section 5 of part G of chapter 60 of the laws of 2016, is amended to read as follows:

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

(a) the amendments to section 29 of the tax law made by section thirteen of this act shall apply to tax documents filed or required to be filed on or after the sixtieth day after which this act shall have become a law [~~and shall expire and be deemed repealed December 31, 2019~~], provided however that the amendments to paragraph 4 of subdivision (a) of section 29 of the tax law and paragraph 2 of subdivision (e) of section 29 of the tax law made by section thirteen of this act with regard to individual taxpayers shall take effect September 15, 2011 but only if the commissioner of 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 eighty-five percent; provided that the commissioner of taxation and finance shall notify the legislative bill drafting commission of the date of the issuance of such report in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law;

(b) sections fourteen, fifteen, sixteen and seventeen of this act shall take effect September 15, 2011 but only if the commissioner of 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 eighty-five percent; **and**

(c) sections fourteen-a and fifteen-a of this act shall take effect September 15, 2011 and expire and be deemed repealed December 31, 2012 but shall take effect only if the commissioner of 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 eighty-five percent or greater[~~;~~

~~(d) sections fourteen-b, fifteen-b, sixteen-a and seventeen-a of this act shall take effect January 1, 2020 but only if the commissioner of 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 eighty-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 [~~or~~]**,** 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

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

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

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

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

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

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

PART D

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

(vi) for taxable years beginning on or after January first, two thousand fourteen, the amount prescribed by this paragraph for a taxpayer [~~which~~] that is a qualified New York manufacturer, shall be computed at the rate of zero percent of the taxpayer's business income base. The term "manufacturer" shall mean a taxpayer [~~which~~] that during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. However, the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity shall not be qualifying activities for a manufacturer under this subparagraph. Moreover, in the case of a combined report, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the

taxable year is principally engaged in the activities set forth in this paragraph, or any combination thereof. A taxpayer or, in the case of a combined report, a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer [~~which~~] **that** has property in New York [~~which~~] **that** is described in clause (A) of subparagraph (i) of paragraph (b) of subdivision one of section two hundred ten-B of this article and either (I) the adjusted basis of such property for [~~federal income~~] **New York state** tax purposes at the close of the taxable year is at least one million dollars or (II) all of its real and personal property is located in New York. A taxpayer or, in the case of a combined report, a combined group, that does not satisfy the principally engaged test may be a qualified New York manufacturer if the taxpayer or the combined group employs during the taxable year at least two thousand five hundred employees in manufacturing in New York and the taxpayer or the combined group has property in the state used in manufacturing, the adjusted basis of which for [~~federal income~~] **New York state** tax purposes at the close of the taxable year is at least one hundred million dollars.

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

(2) For purposes of subparagraph one of this paragraph, the term "manufacturer" shall mean a taxpayer [~~which~~] **that** during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. Moreover, for purposes of computing the capital base in a combined report, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this subparagraph, or any combination thereof. A taxpayer or, in the case of a combined report, a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer that has property in New York that is described in clause (A) of subparagraph (i) of paragraph (b) of subdivision one of section two hundred ten-B of this article and either (i) the adjusted basis of that property for [~~federal income~~] **New York state** tax purposes at the close of the taxable year is at least one million dollars or (ii) all of its real and personal property is located in New York. In addition, a "qualified New York manufacturer" means a taxpayer that is defined as a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph. A taxpayer or, in the case of a combined report, a combined group, that does not satisfy the principally engaged test may be a qualified New York manufacturer if the taxpayer or the combined group employs during the taxable year at least two thousand five hundred employees in manufacturing in New York and the

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

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

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

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

PART E

Section 1. Section 5 of 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 is amended to read as follows:

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

§ 2. This act shall take effect immediately.

PART F

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

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

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

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

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

(c) Qualified terminable interest property election.-- Except as otherwise provided in this subsection, the election referred to in paragraph (7) of subsection (b) of section 2056 of the internal revenue code shall not be allowed under this article unless such election was made with respect to the federal estate tax return required to be filed under the provisions of the internal revenue code. If such election was made for the purposes of the federal estate tax, then such election must also be made by the executor on the return of the tax imposed by this article. Where no federal estate tax return is required to be filed, the executor [~~may~~] **must** make the election referred to in such paragraph (7) with respect to the tax imposed by this article on the return of the tax imposed by this article. Any election made under this subsection shall be irrevocable.

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

PART G

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

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

(1) Marketplace provider. A person who, pursuant to an agreement with a marketplace seller, facilitates sales of tangible personal property by such marketplace seller or sellers. A person "facilitates a sale of tangible personal property" for purposes of this paragraph when the person meets both of the following conditions: (A) such person provides the forum in which, or by means of which, the sale takes place or the offer of sale is accepted, including a shop, store, or booth, an internet website, catalog, or similar forum; and (B) such person or an affiliate of such person collects the receipts paid by a customer to a marketplace seller for a sale of tangible personal property, or contracts with a third party to collect such receipts. For purposes of this paragraph, a "sale of tangible personal property" shall not include the rental of a passenger car as described in section eleven hundred sixty of this chapter but shall include a lease described in subdivision (i) of section eleven hundred eleven of this article. For purposes of this paragraph, persons are affiliated if one person has an ownership interest of more than five percent, whether direct or indirect, in another, or where an ownership interest of more than five percent, whether direct or indirect, is held in each of such persons by another person or by a group of other persons that are affiliated persons with respect to each other.

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

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

(1) "Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; [~~and~~] every operator of a hotel**; and every marketplace provider with respect to sales of tangible personal property it facilitates as described in paragraph one of subdivision (e) of section eleven hundred one of this article**. Said terms shall also include any officer, director or employee of a corporation or of a dissolved corporation, any employee of a partnership, any employee or manager of a limited liability company, or any employee of an individual proprietorship who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article, or has so acted; and any member of a partnership or limited liability company. Provided, however, that any person who is a vendor solely by reason of clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of section eleven hundred one of this article shall not be a "person required to collect any tax imposed by this article" until twenty days after the date by which such person is required to file a certificate of registration pursuant to section eleven hundred thirty-four of this part.

§ 3. Section 1132 of the tax law is amended by adding a new subdivision (l) to read as follows:

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

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

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

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

§ 4. Section 1133 of the tax law is amended by adding a new subdivision (f) to read as follows:

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

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

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

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

§ 6. Section 1142 of the tax law is amended by adding a new subdivision 15 to read as follows:

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

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

PART H

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

(A) gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature**, including the transportation, transmission or distribution of gas or electricity, even if sold separately**;

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

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

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

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

PART I

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

3. Where the tentative equalization rate is not within plus or minus five [~~percentage points~~] **percent** of the locally stated level of assessment, the assessor shall provide notice in writing to the local governing body of any affected town, city, village, county and school district of the difference between the locally stated level of assessment and the tentative equalization rate. Such notice shall be made within ten days of the receipt of the tentative equalization rate, or within ten days of the filing of the tentative assessment roll, whichever is later, and shall provide the difference in the indicated total full value estimates of the locally stated level of assessment and the tentative equalization rate for the taxable property within each affected town, city, village, county and school district, where applicable.

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

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

before the commissioner determines a tentative equalization rate for a city, town or village, he or she shall examine the accuracy of the locally stated level of assessment appearing on the tentative assessment roll. If the commissioner confirms the locally stated level of assessment, then as soon thereafter as is practicable, he or she shall establish and certify such locally stated level of assessment as the final equalization rate for such city, town or village in the manner provided by sections twelve hundred ten and twelve hundred twelve of this title. The provisions of sections twelve hundred four, twelve hundred six and twelve hundred eight of this title shall not apply in such cases, unless the commissioner finds that the final assessment roll differs from the tentative assessment roll to an extent that renders the locally stated level of assessment inaccurate, and rescinds the final equalization rate on that basis.

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

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

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

§ 4. This act shall take effect immediately.

PART J

Section 1. This Part enacts into law major components of legislation relating to the improvement of the administration of real property taxation in accordance with the real property tax law and other laws relating thereto. Each component is wholly contained within a Subpart identified as Subparts A through F. The effective date for each particular provision contained within such Subpart is set forth in the last section

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

SUBPART A

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

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

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

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

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

c. "Impacted tax roll" shall mean the final assessment roll that satisfies both of the following conditions: (a) the roll is based upon a taxable status date occurring prior to a disaster that is the subject of a declaration by the governor of a state disaster emergency; and (b) taxes levied upon that roll by or on behalf of a participating municipality are payable without interest on or after the date of the disaster.

d. "Participating municipality" shall mean an eligible municipality that has passed a local law, ordinance, or resolution to provide assessment relief to property owners within such eligible municipality pursuant to the provisions of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(x) One hundred percent.

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

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

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

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

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

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

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

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

§ 3. This act shall take effect immediately.

SUBPART B

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

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

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

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

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

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

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

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

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

§ 4. This act shall take effect immediately.

SUBPART C

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

4. Notwithstanding the provisions of this subdivision or any other law, the travel and other actual and necessary expenses incurred by an appointed or elected assessor, or by **a person appointed assessor for a forthcoming term, or by** an assessor-elect prior to the commencement of his **or her** term, in satisfactorily completing courses of training as required by this title or as approved by the commissioner, including continuing education courses prescribed by the commissioner which are satisfactorily completed by any elected assessor, shall be a state charge upon audit by the comptroller. Travel and other actual and necessary expenses incurred by an acting assessor who has been exercising the powers and duties of the assessor for a period of at least six months, in attending training courses no earlier than twelve months prior to the date when courses of training and education are required, shall also be a state charge upon audit by the comptroller. Candidates for certification as eligible for the position of assessor, other than assessors or assessors-elect, shall be charged for the cost of training materials and shall be responsible for all other costs incurred by them in connection with such training. **Notwithstanding the foregoing provisions of this subdivision, if the provider of a training course has asked the commissioner to approve the course for credit only, so that attendees who successfully complete the course would be entitled to receive credit without having their expenses reimbursed by the state, and the commissioner has agreed to do so, the travel and other actual and necessary expenses incurred by such attendees shall not be a state charge.**

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

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

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

§ 3. This act shall take effect immediately.

SUBPART D

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

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

(a) The filing of exemption applications;

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

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

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

(e) The issuance of statements of taxes;

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

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

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

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

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

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

(b) [~~Assessors and other municipal officials shall not be required to accept and respond to communications from the commissioner electronically.~~

~~(c)~~] The governing board of any municipal corporation may, by local law, ordinance or resolution, determine that it is in the public interest for such municipal corporation to provide electronic real property tax administration. Upon adoption of such local law, ordinance or resolution, such municipal corporation shall comply with standards set forth by the commissioner.

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

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

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

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

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

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

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

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

(f) On or before November thirtieth, two thousand nineteen, the commissioner shall send a notice by postal mail to assessors, to chief executive officers of assessing units, and to owners of special franchise property and railroad property, informing them of the provisions of this section. The notice to be sent to assessors shall include a copy of the form prescribed pursuant to paragraph (d) of this subdivision.

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

§ 2. This act shall take effect immediately.

SUBPART E

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

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

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

2. In any assessing unit which has completed a revaluation since nineteen hundred fifty-three or which does not contain property that was assessed in nineteen hundred fifty-three, the commissioner shall determine the full value of such special franchise as of the [~~valuation date of the assessing unit~~] **taxable status date specified by subdivision four of section three hundred two of this chapter**. Such full value shall be determined by the commissioner for purposes of sections six hundred eight, six hundred fourteen and six hundred sixteen of this article. These full values shall be entered on the assessment roll at the level of assessment, which shall be the uniform percentage of value, as required by section five hundred two of this chapter, appearing on the tentative assessment roll upon which the assessment is entered. Whenever a final state equalization rate, or, in the case of a special assessing unit, a class equalization rate, is established that is different from a level of assessment applied pursuant to this paragraph, any public official having custody of that assessment roll is hereby authorized and directed to recompute these assessments to reflect that equalization rate, provided such final rate is established by the commissioner at least ten days prior to the date for levy of taxes against those assessments.

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

SUBPART F

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

§ 575-a. Electric generating facility annual reports. 1. Every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any electric generating facility in the state shall annually file with the commissioner, by April thirtieth, a report showing the inventory, revenue, and expenses associated therewith for the most recent fiscal year. Such report shall be in the form and manner prescribed by the commissioner.

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

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

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

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

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

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart 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 subpart 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.

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

PART K

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

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

PART L

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 5. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

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

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

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

§ 6. This act shall take effect immediately and apply to years beginning on or after January 1, 2020.

PART M

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

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

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

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

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

PART N

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

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

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

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

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

PART O

Section 1. Section 12 of 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, as amended by section 1 of part M of chapter 60 of the laws of 2016, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART P

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

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

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $43,000	$1,202 plus 5.9% of excess over $27,900
Over $43,000 but not over $161,550	$2,093 plus 6.09% of excess over $43,000
Over $161,550 but not over $323,200	$9,313 plus 6.41% of excess over $161,550
Over $323,200 but not over $2,155,350	$19,674 plus 6.85% of excess $323,200 over
Over $2,155,350	$145,177 plus 8.82% of excess over $2,155,350

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

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

	$17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $43,000	$1,202 plus 5.9% of excess over $27,900
Over $43,000 but not over $161,550	$2,093 plus 5.97% of excess over $43,000
Over $161,550 but not over $323,200	$9,170 plus 6.33% of excess over $161,550
Over $323,200 **but not over $2,155,350**	$19,403 plus 6.85% of excess over $323,200
Over $2,155,350	**$144,905 plus 8.82% of excess over $2,155,350**

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.85% of excess over $27,900
Over $161,550 but not over $323,200	$9,021 plus 6.25% of excess over $161,550
Over $323,200 **but not over $2,155,350**	$19,124 plus 6.85% of excess over $323,200
Over $2,155,350	**$144,626 plus 8.82% of excess over $2,155,350**

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

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.73% of excess over $27,900
Over $161,550 but not over $323,200	$8,860 plus 6.17% of excess over $161,550
Over $323,200 **but not over $2,155,350**	$18,834 plus 6.85% of excess over $323,200
Over $2,155,350	**$144,336 plus 8.82% of excess over $2,155,350**

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

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

	$161,550
Over $323,200 **but not over**	$18,544 plus 6.85% of
$2,155,350	excess over $323,200
Over $2,155,350	**$144,047 plus 8.82% of excess over**
	$2,155,350

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

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

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over
	$17,650
Over $20,900 but not over $32,200	$901 plus 5.9% of excess over $20,900
Over $32,200 but not over $107,650	$1,568 plus 6.09% of excess over
	$32,200
Over $107,650 but not over $269,300	$6,162 plus 6.41% of excess over
	$107,650
Over $269,300 **but not over**	$16,524 plus 6.85% of
$1,616,450	excess over $269,300
Over $1,616,450	**$108,804 plus 8.82% of excess over**
	$1,616,450

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

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over
	$12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over
	$17,650
Over $20,900 but not over $32,200	$901 plus 5.9% of excess over
	$20,900
Over $32,200 but not over $107,650	$1,568 plus 5.97% of excess over
	$32,200
Over $107,650 but not over $269,300	$6,072 plus 6.33% of excess over
	$107,650
Over $269,300 **but not over**	$16,304 plus 6.85% of
$1,616,450	excess over $269,300
Over $1,616,450	**$108,584 plus 8.82% of excess over**
	$1,616,450

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over
	$12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over
	$17,650
Over $20,900 but not over $107,650	$901 plus 5.85% of excess over
	$20,900
Over $107,650 but not over $269,300	$5,976 plus 6.25% of excess over
	$107,650
Over $269,300 **but not over**	$16,079 plus 6.85% of excess

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

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

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.73% of excess over $20,900
Over $107,650 but not over $269,300	$5,872 plus 6.17% of excess over $107,650
Over $269,300 **but not over $1,616,450**	$15,845 plus 6.85% of excess over $269,300
Over $1,616,450	**$108,125 plus 8.82% of excess over $1,616,450**

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

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.61% of excess over $20,900
Over $107,650 but not over $269,300	$5,768 plus 6.09% of excess over $107,650
Over $269,300 **but not over $1,616,450**	$15,612 plus 6.85% of excess over $269,300
Over $1,616,450	**$107,892 plus 8.82% of excess over $1,616,450**

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

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

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $21,400	$600 plus 5.9% of excess over $13,900
Over $21,400 but not over $80,650	$1,042 plus 6.09% of excess over $21,400
Over $80,650 but not over $215,400	$4,650 plus 6.41% of excess over $80,650
Over $215,400 **but not over $1,077,550**	$13,288 plus 6.85% of excess over $215,400
Over $1,077,550	**$72,345 plus 8.82% of excess over**

$1,077,550

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

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $21,400	$600 plus 5.9% of excess over $13,900
Over $21,400 but not over $80,650	$1,042 plus 5.97% of excess over $21,400
Over $80,650 but not over $215,400	$4,579 plus 6.33% of excess over $80,650
Over $215,400 **but not over $1,077,550**	$13,109 plus 6.85% of excess over $215,400
Over $1,077,550	**$72,166 plus 8.82% of excess over $1,077,550**

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.85% of excess over $13,900
Over $80,650 but not over $215,400	$4,504 plus 6.25% of excess over $80,650
Over $215,400 **but not over $1,077,550**	$12,926 plus 6.85% of excess over $215,400
Over $1,077,550	**$71,984 plus 8.82% of excess over $1,077,550**

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

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.73% of excess over $13,900
Over $80,650 but not over $215,400	$4,424 plus 6.17% of excess over $80,650
Over $215,400 **but not over $1,077,550**	$12,738 plus 6.85% of excess over $215,400
Over $1,077,550	**$71,796 plus 8.82% of excess over $1,077,550**

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

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over

	$8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.61% of excess over $13,900
Over $80,650 but not over $215,400	$4,344 plus 6.09% of excess over $80,650
Over $215,400 **but not over $1,077,550**	$12,550 plus 6.85% of excess over $215,400
Over $1,077,550	**$71,608 plus 8.82% of excess over $1,077,550**

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

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

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

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

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

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

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

§ 7. This act shall take effect immediately.

PART Q

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

(g) **Notwithstanding subsection (a) of this section, the New York itemized deduction for charitable contributions shall be the amount allowed under section one hundred seventy of the internal revenue code, as modified by paragraph nine of subsection (c) of this section and as limited by this subsection.** (1) With respect to an individual whose New York adjusted gross income is over one million dollars and no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine and before two thousand [~~twenty~~] **twenty-five**. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine or after two thousand [~~nineteen~~] **twenty-four**.

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

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

(g) **Notwithstanding subdivision (a) of this section, the city itemized deduction for charitable contributions shall be the amount allowed under section one hundred seventy of the internal revenue code, as limited by this subdivision.** (1) With respect to an individual whose New York adjusted gross income is over one million dollars but no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine and before two thousand [~~twenty~~] **twenty-five**. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine or after two thousand [~~nineteen~~] **twenty-four**.

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

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

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

PART R

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

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

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

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

§ 3. This act shall take effect immediately.

PART S

Section 1. Subdivision (e) of section 23 of the 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 is REPEALED.

§ 2. This act shall take effect immediately.

PART T

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

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

franchise, license, and corporation taxes referenced in such subdivisions or, in the case of cooperative cooperations described in subdivision two of this section, the tax imposed under section one-hundred eighty-six-a of the tax law.

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

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

§ 3. This act shall take effect immediately.

PART U

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

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

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

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

estimate, a census tract that qualified for eligibility under this program before information about the change was released will remain eligible for a credit under this subsection for an additional two calendar years.

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

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

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

PART V

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

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

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

§ 2. This act shall take effect immediately.

PART W

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

§ 32.38 Power to administer the recovery tax credit program.

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

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

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

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

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

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

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

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

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

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

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

(d) Eligibility. A certified employer shall be entitled to a tax credit equal to the product of one dollar and the number of hours worked by each eligible individual during such individual's period of eligibility. The credit shall not be allowed unless the eligible individual has worked in state for a minimum of five hundred hours for the certified employer, and the credit cannot exceed two thousand dollars per eligible individual employed by the certified employer in the state. The period of eligibility for each such employee starts on the day the employee is hired and ends on December thirty-first of the immediately succeeding calendar year or the last day of the employee's employment by the certified employer, whichever comes first. If an employee has worked in excess of five hundred hours between the date of hiring and December thirty-first of that year, an employer can elect to compute and claim a credit for such employee in that year based on the hours worked by December thirty-first. Alternatively, the employer may elect to include such individual in the computation of the credit in the year immediately succeeding the year in which the employee was hired. In such case, the credit shall be computed on the basis of all hours worked by such eligible individual from the date of hire to the earlier of the last day of employment or December thirty-first of the succeeding year. However, in no event may an employee generate credit for hours worked in excess of two thousand hours. An employer may claim credit only once with respect to any eligible individual and may not aggregate hours of two or more employees to reach the minimum number of hours.

(e) Duties of the commissioner. The commissioner shall annually provide to the commissioner of the department of taxation and finance information about the program including, but not limited to, the number of certified employers then participating in the program, unique identifying information for each certified employer, the number of eligible individuals employed by each certified employer, unique identifying information for each eligible individual employed by the certified employers, the number of hours worked by such eligible individuals, the total dollar amount of claims for credit, and the dollar amount of credit granted to each certified employer.

(f) Certified employer's taxable year. If the certified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as shown on the certificate of tax credit on the calendar year return for which the certificate of tax credit was issued. If the certified employer's taxable year is a fiscal year, the employer shall be entitled to claim the credit as shown on the certificate of tax credit on the return for the fiscal year that includes the last day of the calendar year covered by the certificate of tax credit.

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

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

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

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

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

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

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

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

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

(xliv) Recovery tax credit under subsection (jjj)	Amount of credit under subdivision fifty-three of section two hundred ten-B

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

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

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

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

§ 5. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

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

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

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

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

PART X

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

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

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

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

§ 3. Paragraph (a) of subdivision 8 of section 11-602 of the administrative code of the city of New York is amended by adding a new subparagraph 14 to read as follows:

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

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

PART Y

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

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

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

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

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

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

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

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

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

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

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

corporation or incurred in the same manner as incurred by the partnership or S corporation.

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

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

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

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

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

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

PART Z

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

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

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

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

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

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

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

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

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

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

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

taxpayer must also pay with the tax surcharge report required to be filed for the second preceding privilege period, or with an application for extension of the time for filing the report, for taxable years beginning before January first, two thousand sixteen, and must pay on or before the fifteenth day of the third month of such privilege periods, for taxable years beginning on or after January first, two thousand sixteen, an amount equal to (i) twenty-five percent of the tax surcharge imposed for the second preceding year if the second preceding year's tax was equal to or less than one hundred thousand dollars, or (ii) forty percent of the tax surcharge imposed for the second preceding year if the second preceding year's tax exceeded one hundred thousand dollars. Provided, however, that every taxpayer that is [~~an~~] **a New York** S corporation must pay with the report required to be filed for the preceding privilege period, or with an application for extension of the time for filing the report, an amount equal to (i) twenty-five percent of the preceding year's tax if the preceding year's tax exceeded one thousand dollars but was equal to or less than one hundred thousand dollars, or (ii) forty percent of the preceding year's tax if the preceding year's tax exceeded one hundred thousand dollars. [~~If the preceding year's tax under section two hundred nine of this article exceeded one thousand dollars and such taxpayer that is an S corporation is subject to the tax surcharge imposed by section two hundred nine-B of this article, the taxpayer must also pay with the tax surcharge report required to be filed for the preceding privilege period, or with an application for extension of the time for filing the report, an amount equal to (i) twenty-five percent of the tax surcharge imposed for the preceding year if the preceding year's tax was equal equal to or less than one hundred thousand dollars, or (ii) forty percent of the tax surcharge imposed for the preceding year if the preceding year's tax exceeded one hundred thousand dollars.~~]

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately and shall apply to [~~taxable years beginning~~] **amounts paid or incurred** on and after January 1, 2018.

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

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

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

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

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

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

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

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

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

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

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

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

PART AA

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

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

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

§ 490. Exemption from special ad valorem levies and special assessments. Real property exempt from taxation pursuant to subdivision two of section four hundred, subdivision one of section four hundred four, subdivision one of section four hundred six, sections four hundred eight, four hundred ten, four hundred ten-a, four hundred ten-b, four hundred eighteen, four hundred twenty-a, four hundred twenty-b, four hundred twenty-two, four hundred twenty-six, four hundred twenty-seven, four hundred twenty-eight, four hundred thirty, four hundred thirty-two, four hundred thirty-four, four hundred thirty-six, four hundred thirty-eight, four hundred fifty, four hundred fifty-two, four hundred fifty-four, four hundred fifty-six, four hundred sixty-four, four hundred seventy-two, four hundred seventy-four, [~~and~~] four hundred eighty-five **and subdivision ten of section four hundred eighty-seven** of this chapter shall also be exempt from special ad valorem levies and special assessments against real property located outside cities and villages for a special improvement or service or a special district improvement or service and special ad valorem levies and special assessments imposed by a county improvement district or district corporation except (1) those levied to pay for the costs, including interest and incidental and preliminary costs, of the acquisition, installation, construction, reconstruction and enlargement of or additions to the following improvements, including original equipment, furnishings, machinery or apparatus, and the replacements thereof: water supply and distribution systems; sewer systems (either sanitary or surface drainage or both, including purification, treatment or disposal plants or buildings); waterways and drainage improvements; street, highway, road and parkway improvements (including sidewalks, curbs, gutters, drainage, landscaping, grading or improving the right of way) and (2) special assessments payable in installments on an indebtedness including interest contracted prior to July first, nineteen hundred fifty-three, pursuant to section two hundred forty-two of the town law or pursuant to any other comparable provision of law.

§ 3. This act shall take effect immediately.

PART BB

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

1. No person shall be appointed to or employed by the commission if, during the period commencing three years prior to appointment or employment, [~~said~~] **such** person held any direct or indirect interest in, or employment by, any corporation, association or person engaged in gaming activity within the state. Prior to appointment or employment, each member, officer or employee of the commission shall swear or affirm that he or she possesses no interest in any corporation or association holding a franchise, license, registration, certificate or permit issued by the commission. Thereafter, no member or officer of the commission shall hold any direct interest in or be employed by any applicant for or by any corporation, association or person holding a license, registration, franchise, certificate or permit issued by the commission for a period of four years commencing on the date his or her membership with the commission terminates. Further, no employee of the commission may acquire any direct or indirect interest in, or accept employment with,

any applicant for or any person holding a license, registration, franchise, certificate or permit issued by the commission for a period of two years commencing at the termination of employment with the commission. **The commission may, by resolution adopted at a properly noticed public meeting, waive for good cause any of its pre-employment restrictions for a prospective employee.**

§ 2. This act shall take effect immediately.

PART CC

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

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

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

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

§ 3. This act shall take effect immediately.

PART DD

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

SUBPART A

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 7. This act shall take effect immediately.

SUBPART B

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

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

of the chair of the state gaming commission or his or her designee, the commissioner of agriculture and markets, three members of the state gaming commission **or other bona fide residents of the state who have a cogent interest in the thoroughbred breeding industry in the state** as designated by the governor and six members appointed by the governor, all of whom are experienced or have been actively engaged in the breeding of thoroughbred horses in New York state, one, the president or the executive director of the statewide thoroughbred breeders association representing the majority of breeders of registered thoroughbreds in New York state, one upon the recommendation of the majority leader of the senate, one upon the recommendation of the speaker of the assembly, one upon the recommendation of the minority leader of the senate, and one upon the recommendation of the minority leader of the assembly. Two of the appointed members shall initially serve for a two year term, two of the appointed members shall initially serve for a three year term and two of the appointed members shall initially serve for a four year term. All successors appointed members shall serve for a four year term. All members shall continue in office until their successors have been appointed and qualified. The governor shall designate the chair from among the sitting members who shall serve as such at the pleasure of the governor.

§ 2. This act shall take effect immediately.

SUBPART C

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

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

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

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

§ 3. This act shall take effect immediately.

SUBPART D

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

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

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

Notwithstanding section one hundred twenty-one of the state finance law, on or before the twentieth day of each month, the [~~division~~] **commission** shall pay into the state treasury, to the credit of the state lottery fund created by section ninety-two-c of the state finance law, **not less than forty-five percent of the total amount for which tickets have been sold for games defined in paragraph five of subdivision a of this section during the preceeding month,** not less than [~~forty-five~~] **thirty-five** percent of the total amount for which tickets have be sold for games defined in paragraph four of subdivision a of this section during the preceding month, not less than [~~thirty-five~~] **thirty** percent of the total amount for which tickets have been sold for games defined in paragraph three of subdivision a of this section during the preceding month, not less than twenty **and three-fourths** percent of the total amount for which tickets have been sold for games defined in paragraph two of subdivision a of this section during the preceding month, provided however that for games with a prize payout of [~~seventy-five~~] **seventy-four and one-fourth** percent of the total amount for which tickets have been sold, the [~~division~~] **commission** shall pay not less than ten **and three-fourths** percent of sales into the state treasury and not less than twenty-five percent of the total amount for which tickets have been sold for games defined in paragraph one of subdivision a of this section during the preceding month; and the balance of the total revenue after payout for prizes for games known as "video lottery gaming," including any joint, multi-jurisdiction, and out-of-state video lottery gaming,

§ 3. Subdivision a of section 1614 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

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

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

§ 4. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart 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 subpart 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.

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

PART EE

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

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

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

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

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

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

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

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

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

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

(C) when a video lottery facility is located at Aqueduct racetrack, at a rate of fifty percent of the total revenue wagered at the video lottery gaming facility after payout for prizes pursuant to this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) The comptroller or his legally authorized representative is authorized to audit any and all expenditures made out of these segregated capital accounts.

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

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

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

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

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

PART FF

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

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

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

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

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

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

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

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

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

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

§ 3. This act shall take effect immediately.

PART GG

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

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

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

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

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

d. Staff of the corporation shall prepare and submit to the board on a quarterly basis a report of summarized budget data depicting overall trends, by major category within funds, of actual revenues and budget expenditures for the entire budget rather than individual line items, as well as updated quarterly cash flow projections of receipts and disbursements. Such reports shall compare revenue estimates and appropriations as set forth in such budget and in the quarterly revenue and expenditure projections submitted therewith, with the actual revenues and expenditures made to date. Such reports shall also compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with variances and their explanation. All quarterly reports shall be accompanied by recommendations from the president setting forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations. These reports shall be completed within thirty days after the end of each quarter and shall be submitted to the board by the corporation comptroller.

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

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

15. Notwithstanding any inconsistent provision of law, a regional off-track betting corporation may, pursuant to a written plan and agreement with another regional off-track betting corporation approved by the commission, assume the off-track betting operations authorized by article five-A of this chapter of the other regional off-track betting corporation. During the duration of any such agreement, the regions of any regional off-track betting corporations, as defined by section five hundred nineteen of this chapter shall be deemed combined, provided, however, the combining of such regions shall not impact the authorization of a regional off-track betting corporation relinquishing off-track betting operations to be incorporated, exercise other powers, or to conduct any other activities permitted or authorized by law.

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

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

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

§ 4. This act shall take effect immediately.

PART HH

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

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility and for account wagering licensees that do not operate either a simulcast facility that is open to the public within the state of New York or a licensed racetrack within the state, twenty thousand dollars per year payable by the licensee to the commission for deposit into the general fund. Except as provided in this section, the commission shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The commission may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the commission. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nine-

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

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

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

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

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [~~nineteen~~] **twenty-four** and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand [~~nineteen~~] **twenty-four**. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred racing corporation located within the state is conducting racing, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that [~~have~~] **has** entered into a written agreement with such facility's representative horsemen's organization, as approved by the commission), one thousand eight, or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

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

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

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

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

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

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

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

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

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

§ 8. Section 54 of 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, as amended by section 8 of part GG of chapter 59 of the laws of 2018, is amended to read as follows:

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

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

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

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

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

For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [~~nineteen~~] twenty-four, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [~~nineteen~~] twenty-four, such payment shall be seven-tenths of one per centum of such pools.

§ 10. This act shall take effect immediately.

PART II

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

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

Section 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 regulations relating to the permitted and prohibited use of drugs and medications 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

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

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

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

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

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

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

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

i. "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States; and

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

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

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

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

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

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

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

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

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

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

h. Once effective, the compact shall continue in force and remain binding according to its terms upon each member state; provided that, a member state may withdraw from the compact by repealing the statute that enacted the compact into law. The racing commission of a withdrawing state shall give written notice of such withdrawal to the compact chairperson, who shall notify the member state racing commissions. A withdrawing state shall remain responsible for any unfulfilled obligations and liabilities. The effective date of withdrawal from the compact shall be the effective date of the repeal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. gather information and engage in discussions with advisory committees, national industry stakeholders, and others, including an opportunity for industry organizations to submit input to member state racing commissions on the state level, to foster, promote and conduct a collaborative approach in the design and advancement of compact rules in a manner that serves the best interests of racing and as established in the by-laws;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Each member state shall be liable for and pay judgments filed against the compact commission to the extent related to its participation in the compact. Where liability arises from action undertaken jointly with other member states, the liability shall be divided equally among the states for whom the applicable action or omission of the executive director or other employees of the compact commission was undertaken; and no member state shall contribute to or pay, or be jointly or severally or otherwise liable for, any part of any judgment beyond its share as determined in accordance with this section.

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

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

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

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

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

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

§ 2. This act shall take effect immediately.

PART JJ

Section 1. Section 2 of 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, is amended to read as follows:

§ 2. An advisory committee shall be established within the New York gaming commission comprised of individuals with demonstrated interest in the performance of thoroughbred and standardbred race horses to review the present structure, operations and funding of equine drug testing and research conducted pursuant to article nine of the racing, pari-mutuel wagering and breeding law. Members of the committee, who shall be appointed by the governor, shall include but not be limited to a designee at the recommendation of each licensed or franchised thoroughbred and standardbred racetrack, a designee at the recommendation of each operating regional off-track betting corporation, a designee at the recommendation of each recognized horsemen's organization at licensed or franchised thoroughbred and standardbred racetracks, a designee at the recommendation of both Morrisville State College and the Cornell University School of Veterinary Medicine, and two designees each at the recommendation of the speaker of the assembly and temporary president of the senate. The governor shall designate the chair from among the members who shall serve as such at the pleasure of the governor. State agencies shall cooperate with and assist the committee in the fulfillment of its duties and may render informational, non-personnel services to the committee within their respective functions as the committee may reasonably request. Recommendations shall be delivered to the temporary president of the senate, speaker of the assembly and governor by December 1, [~~2018~~] 2019 regarding the future of such research, testing and funding. Members of the board shall not be considered policymakers.

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

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

§ 3. This act shall take effect immediately.

PART KK

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

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

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

2. The primary registration to engage in gaming activities shall solely be an informational return containing such information the commission deems applicable to all sub-registrations or sub-licenses. The commission shall require separate applications for all sub-registrations or sub-licenses containing all supplemental information that the commission deems necessary.

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

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

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

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

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

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

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

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

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

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

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

4. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this article shall have the continuing duty to provide any assistance or information required by the commission, and to cooperate in any inquiry, investigation or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this article refuses to comply, the application, license, registration or qualification of such person may be **suspended,** denied or revoked.

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

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

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

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

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

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

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

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

4. For the purposes of this section, each **gaming or non-gaming** registrant shall submit to the commission the registrant's name, address, fingerprints and written consent for a criminal history information to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history information as defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law from the state division of criminal justice services and the federal bureau of investigation consistent with applicable state and federal laws, rules and regulations. The registrant shall pay the fee for such criminal history information as established pursuant to article thirty-five of the executive law. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective licensee **or registrant**, who was the subject of a criminal history information pursuant to this section, is

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

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

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

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

§ 1325. Approval, denial and renewal of employee licenses and registrations. 1. Upon the filing of an application for a casino key employee license or gaming employee registration required by this article and after submission of such supplemental information as the commission may require, the commission shall conduct or cause to be conducted such investigation into the qualification of the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant, in accordance with its regulations, as may be necessary to determine qualification for such license **or registration. Upon the filing of an application for a non-gaming employee registration, and after submission of such supplemental information as the commission may require, the commission may, in its discretion, conduct or cause to be conducted an investigation into the qualification of such applicant**.

2. After such investigation, the commission may either deny the application or grant a license **or registration** to an applicant whom it determines to be qualified to hold such license **or registration. The granting of any such license or registration shall apply only to the job title included in the application and to its associated duties. The commission may, upon request and at its sole discretion, allow transfer of the license or registration to another job title upon determination that the original application would have been satisfactory had it been submitted for the new title**.

3. The commission shall have the authority to deny any application pursuant to the provisions of this article following notice and opportunity for hearing.

4. When the commission grants [~~an application~~] **a license or registration**, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest.

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

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

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

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

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

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

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

4. Each casino vendor enterprise required to be licensed pursuant to subdivision one of this section, as well as its owners; management and supervisory personnel[~~; and employees if such employees have responsibility for services to a gaming facility applicant or licensee,~~] must qualify under the standards, except residency, established for qualification of a casino key employee under this article. **Employees of such vendors that have responsibility for services to a gaming facility applicant or licensee must qualify under the standards established for qualification of a gaming employee registration under this article.**

Each ancillary casino vendor enterprise required to be licensed pursuant to subdivision three of this section, as well as its owners; management; supervisory personnel and employees that have responsibility for services to a gaming facility applicant or licensee must qualify under the standards established for qualification of a gaming employee registration under this article.

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

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

Prior to conducting business with any vendor not included in subdivision one or two of this section, which is providing business worth less than the thresholds provided in this subdivision, a gaming facility applicant or licensee shall notify the commission of the intended transaction, along with any history of transactions with such vendor, to allow for verification that the licensing requirements of this section do not apply.

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

Notwithstanding the provisions aforementioned, the executive director may, consistent with the public interest and the policies of this article, direct that individual vendors registered pursuant to this subdivision be required to apply for either a casino vendor enterprise license pursuant to subdivision one of this section, or an ancillary vendor industry enterprise license pursuant to subdivision three of this section, as directed by the commission. The executive director may also order that any enterprise licensed as or required to be licensed as an ancillary casino vendor enterprise pursuant to subdivision three of this section be required to apply for a casino vendor enterprise license pursuant to subdivision one of this section. The executive director may also, in his or her discretion, order that an independent software contractor not otherwise required to be registered be either registered as a vendor pursuant to this subdivision or be licensed pursuant to either subdivision one or three of this section.

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

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

6. Any applicant, licensee or qualifier of a casino vendor enterprise license or of an ancillary casino vendor enterprise license under subdivision one of this section, and any vendor registrant under subdivision five of this section shall be disqualified in accordance with the criteria contained in section [~~one thousand three~~] **thirteen** hundred eighteen of this article, except that no such [~~ancillary casino vendor enterprise~~

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

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

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

§ 14. This act shall take effect immediately.

PART LL

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

(i) The tax savings for each parcel receiving the exemption authorized by section four hundred twenty-five of this chapter shall be computed by subtracting the amount actually levied against the parcel from the amount that would have been levied if not for the exemption, provided however, that [~~beginning with~~] for the two thousand eleven-two thousand twelve through two thousand eighteen-two thousand nineteen school [~~year~~] years, the tax savings applicable to any "portion" (which as used herein shall mean that part of an assessing unit located within a school district) shall not exceed the tax savings applicable to that portion in the prior school year multiplied by one hundred two percent, with the result rounded to the nearest dollar; and provided further that beginning with the two thousand nineteen-two thousand twenty school year: (A) for purposes of the exemption authorized by section four hundred twenty-five of this chapter, the tax savings applicable to any portion shall not exceed the tax savings for the prior year, and (B) for purposes of the credit authorized by subsection (eee) of section six hundred six of the tax law, the tax savings applicable to any portion shall not exceed the tax savings applicable to that portion in the prior school year multiplied by one hundred two percent, with the result rounded to the nearest dollar. The tax savings attributable to the basic and enhanced exemptions shall be calculated separately. It shall be the responsibility of the commissioner to calculate tax savings limitations for purposes of this subdivision.

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

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

§ 3. This act shall take effect immediately.

PART MM

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

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

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

PART NN

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

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

If household gross income for the taxable year is:	Excess real property taxes are the excess of real property tax equivalent or the excess of qualifying real property taxes over the following percentage of household gross income:	The credit amount is the following percentage of excess property taxes:
Less than $100,000	4	4.5
$100,000 to less than $150,000	5	3.0
$150,000 to less than $200,000	6	1.5

Notwithstanding the foregoing provisions, the maximum credit determined under this subparagraph may not exceed five hundred dollars.

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

PART OO

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

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

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

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

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

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

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

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

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

§ 3. This act shall take effect immediately.

PART PP

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

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

(B) **Effective with final assessment rolls to be completed in two thousand twenty, the commissioner shall also annually verify the eligibility of such persons for the enhanced exemption on the basis of age and residency as well as income.**

(C) Where the commissioner finds that the enhanced exemption should be replaced with a basic exemption because [~~the income limitation applicable to the enhanced exemption has been exceeded~~] **the property is only eligible for a basic exemption**, he or she shall provide the property owners with notice and an opportunity to submit to the commissioner evidence to the contrary. Where the commissioner finds that the enhanced exemption should be removed or denied without being replaced with a basic exemption because [~~the income limitation applicable to the basic exemption has also been exceeded~~] **the property is not eligible for either exemption**, he or she shall provide the property owners with

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

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

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

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

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

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

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

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

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

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

§ 5. This act shall take effect immediately.

PART QQ

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 5. This act shall take effect immediately.

PART RR

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

(b-1) Income. For final assessment rolls to be used for the levy of taxes for the two thousand eleven-two thousand twelve **through two thousand eighteen-two thousand nineteen** school [~~year and thereafter~~] **years**, the parcel's affiliated income may be no greater than five hundred thousand dollars, as determined by the commissioner [~~of taxation and finance~~] pursuant to **subdivision fourteen of this section or** section one hundred seventy-one-u of the tax law, in order to be eligible for the basic exemption authorized by this section. **Beginning with the two thousand nineteen-two thousand twenty school year, for purposes of the exemption authorized by this section, the parcel's affiliated income may be no greater than two hundred fifty thousand dollars, as so determined.** As used herein, the term "affiliated income" shall mean the combined income of all of the owners of the parcel who resided primarily thereon on the applicable taxable status date, and of any owners' spouses residing primarily thereon. For exemptions on final assessment rolls to be used for the levy of taxes for the two thousand eleven-two thousand twelve school year, affiliated income shall be determined based upon the parties' incomes for the income tax year ending in two thousand nine. In each subsequent school year, the applicable income tax year shall be advanced by one year. The term "income" as used herein shall have the same meaning as in subdivision four of this section.

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

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

§ 3. This act shall take effect immediately.

PART SS

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

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

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

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

§ 2. This act shall take effect immediately.

PART TT

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

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

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

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

ing a STAR exemption before school taxes have been levied on the assessment roll upon which that exemption appears, no processing fee shall be applicable.

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

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

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

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

§ 5. This act shall take effect immediately.

PART UU

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

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

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

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

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

14. "Price reduction instrument" means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

15. "Dealer" means a dealer, as defined in section four hundred seventy of the tax law or a vapor products dealer as defined in section eleven hundred eighty of the tax law.

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

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

18. "Menu cover page" means the front cover of a tobacco and vapor products menu or, if there is no front cover, the first page of a tobacco and vapor products menu.

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

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

§ 1399-bb. Distribution of tobacco products, vapor products, electronic cigarettes or herbal cigarettes without charge. 1. No person engaged in the business of selling or otherwise distributing tobacco products, vapor products, electronic cigarettes or herbal cigarettes for commercial purposes, or any agent or employee of such person, shall knowingly, in furtherance of such business:

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

(b) distribute [~~coupons~~] price reduction instruments which are redeemable for tobacco products [~~or~~], herbal cigarettes, vapor products, or electronic cigarettes to any individual, provided that this subdivision shall not apply to coupons contained in newspapers, magazines or other types of publications, coupons obtained through the purchase of tobacco products [~~or~~], herbal cigarettes, vapor products, or electronic cigarettes or obtained at locations which sell tobacco products [~~or~~], herbal cigarettes, vapor products, or electronic cigarettes provided that such distribution is confined to a designated area or to coupons sent through the mail.

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

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

(b) sell or offer for sale tobacco products, herbal cigarettes, vapor products, or electronic cigarettes to a consumer through any multi-package discount or otherwise provide to a consumer any tobacco products, herbal cigarettes, vapor products, electronic cigarettes for less than the listed price in exchange for the purchase of any other tobacco products, herbal cigarettes, vapor products, or electronic cigarettes by the consumer;

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

(d) sell, offer for sale, or otherwise provide tobacco products, herbal cigarettes, vapor products, or electronic cigarettes to a consumer for less than the listed price.

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

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

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

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

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

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

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

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

4. No person engaged in the business of selling or otherwise distributing vapor products or electronic cigarettes for commercial purposes, or any agent or employee of such person, shall knowingly, in furtherance of such business, distribute without charge any vapor products or electronic cigarettes to any individual under [~~eighteen~~] twenty-one years of age.

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

vidual who demonstrates, through (a) a driver's license or [~~other photographic~~] 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-

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

4. (a) 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 may perform a transaction scan as a precondition for such purchases.

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

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

7. (a) No 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 shall sell, permit to be sold, offer for sale or display for sale any tobacco product, herbal cigarettes, [~~liquid nicotine~~] vapor products, shisha or electronic cigarettes in any manner, unless such products and cigarettes are stored for sale [~~(a)~~] (i) behind a counter in an area accessible only to the personnel of such business, or [~~(b)~~] (ii) in a locked container; provided, however, such restriction shall not apply to tobacco businesses, as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article, and to places to which admission is restricted to persons [~~eighteen~~] twenty-one years of age or older.

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

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

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

(c) No dealer shall display or permit the display of any tobacco product, herbal cigarette, vapor product, or electronic cigarette for any longer than necessary to complete the purposes identified in subparagraphs (i) and (ii) of paragraph (b) of this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) means of identifying fraudulent identification of attempted underage purchasers;

(6) techniques used to refuse a sale;

(7) the penalties arising out of unlawful sales to underage individuals; and

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

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

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

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

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

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

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

2. The commissioner shall distribute such monies as are made available for such purpose to enforcement officers and, in so doing, consider the number of retail locations registered to sell tobacco products within the jurisdiction of the enforcement officer and the level of proposed activities.

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

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

(b) Any person operating a tobacco business wherein bidis is sold or offered for sale is prohibited from selling such bidis 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 BIDIS 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.

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

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

(b) Any person operating a tobacco business wherein gutka is sold or offered for sale is prohibited from selling such gutka 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 GUTKA 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.

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

§ 1399-mm-1. Sale in pharmacies. No tobacco products, herbal cigarettes, vapor products, or electronic cigarettes shall be sold in a pharmacy or in a retail establishment that contains a pharmacy operated as a department as defined in paragraph f of subdivision two of section sixty-eight hundred eight of the education law.

§ 13. The public health law is amended by adding a new section 1399-mm-2 to read as follows:

§ 1399-mm-2. Electronic cigarette and vapor products; characterizing flavors. The commissioner is authorized to promulgate regulations governing the sale and distribution of electronic cigarettes or vapor products. Such regulations may, to the extent deemed necessary for the protection of public health, prohibit or restrict: (i) the selling, offering for sale, possessing with intent to sell or offering for sale, or distributing of refills, cartridges, or other components of electronic cigarettes or vapor products that imparts a characterizing flavor; or (ii) the use of trademarks, names or descriptions of characterizing flavors that are clearly intended to appeal to minors.

§ 14. Paragraph n of subdivision 1 of section 1399-o of the public health law, as amended by chapter 335 of the laws of 2017, is amended to read as follows:

n. general hospitals and residential health care facilities as defined in article twenty-eight of this chapter, **hospitals and residential facilities licensed by or operated by the office of mental health pursuant to the mental hygiene law,** and other health care facilities licensed by the state in which persons reside; provided, however, that the provisions of this subdivision shall not prohibit smoking [~~and vaping~~] by patients in separate enclosed rooms of residential health care facilities, adult care facilities established or certified under title two of article seven of the social services law, [~~community mental health residences established under section 41.44 of the mental hygiene law,~~] or facilities where day treatment programs are provided, which are designated as smoking [~~and vaping~~] rooms for patients of such facilities or programs;

§ 15. Subdivision 2 of section 1399-o of the public health law is amended by adding a new paragraph c to read as follows:

c. on the grounds of hospitals licensed by or operated by the office of mental health pursuant to the mental hygiene law.

§ 16. Section 399-gg of the general business law, as added by chapter 542 of the laws of 2014, is amended to read as follows:

§ 399-gg. Packaging of [~~electronic liquid~~] **vapor products**. 1. No person, firm or corporation shall sell or offer for sale any [~~electronic~~

~~liquid~~] vapor products, as defined in [~~paragraph (e) of~~] subdivision [~~one~~] sixteen of section [~~thirteen hundred ninety-nine-cc~~] thirteen hundred ninety-nine-aa of the public health law, unless the [~~electronic liquid~~] vapor products is sold or offered for sale in a child resistant bottle which is designed to prevent accidental exposure of children to [~~electronic liquids~~] vapor products.

2. Any violation of this section shall be punishable by a civil penalty not to exceed one thousand dollars.

§ 17. The tax law is amended by adding a new article 28-C to read as follows:

ARTICLE 28-C
SUPPLEMENTAL TAX ON VAPOR PRODUCTS

Section 1180. Definitions.
1181. Imposition of tax.
1182. Imposition of compensating use tax.
1183. Vapor products dealer registration and renewal.
1184. Administrative provisions.
1185. Criminal penalties.
1186. Deposit and disposition of revenue.

§ 1180. Definitions. For the purposes of the taxes imposed by this article, the following terms shall mean:

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

(b) "Vapor products dealer" means a person licensed by the commissioner to sell vapor products in this state.

§ 1181. Imposition of Tax. In addition to any other tax imposed by this chapter or other law, there is hereby imposed a tax of twenty percent on receipts from the retail sale of vapor products sold in this state. The tax is imposed on the purchaser and collected by the vapor products dealer as defined in subdivision (b) of section eleven hundred eighty of this article, in trust for and on account of the state.

§ 1182. Imposition of compensating use tax. (a) Except to the extent that vapor products have already been or will be subject to the tax imposed by section eleven hundred eighty-one of this article, or are otherwise exempt under this article, there is hereby imposed a use tax on every use within the state of vapor products: (1) purchased at retail; and (2) manufactured or processed by the user if items of the same kind are sold by him or her in the regular course of his or her business.

(b) For purposes of paragraph one of subdivision (a) of this section, the tax shall be at the rate of twenty percent of the consideration given or contracted to be given for such vapor product purchased at retail. For purposes of paragraph two of subdivision (a) of this section, the tax shall be at the rate of twenty percent of the price at which such items of the same kind of vapor product are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of such vapor product by the person that manufactured or proc-

essed such vapor product shall not be deemed a taxable use by him or her.

(c) The tax due pursuant to this section shall be paid and reported no later than twenty days after such use on a form prescribed by the commissioner.

§ 1183. Vapor products dealer registration and renewal. (a) Every person who intends to sell vapor products in this state must receive from the commissioner a certificate of registration prior to engaging in business. Such person must electronically submit a properly completed application for a certificate of registration for each location at which vapor products will be sold in this state, on a form prescribed by the commissioner, and shall be accompanied by a non-refundable application fee of three hundred dollars.

(b) A vapor products dealer certificate of registration shall be valid for the calendar year for which it is issued unless earlier suspended or revoked. Upon the expiration of the term stated on the certificate of registration, such certificate shall be null and void. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon the vapor products dealer ceasing to do business as specified in such certificate or in the event that such business never commenced.

(c) Every vapor product dealer shall publicly display a vapor products dealer certificate of registration in each place of business in this state where vapor products are sold at retail. A vapor products dealer who has no regular place of business shall publicly display such valid certificate on each of its carts, stands, trucks or other merchandising devices through which it sells vapor products.

(d) (1) The commissioner shall refuse to issue a certificate of registration to any applicant who does not possess a valid certificate of authority under section eleven hundred thirty-four of this chapter. In addition, the commissioner may refuse to issue a certificate of registration, or suspend, cancel or revoke a certificate of registration issued to any person who: (A) has a past-due liability as that term is defined in section one hundred seventy-one-v of this chapter; (B) has had a certificate of registration under this article or any license or registration provided for in this chapter revoked within one year from the date on which such application was filed; (C) has been convicted of a crime provided for in this chapter within one year from the date on which such application was filed; (D) willfully fails to file a report or return required by this article; (E) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false; (F) willfully fails to collect or truthfully account for or pay over any tax imposed by this article; or (G) whose place of business is at the same premises as that of a person whose vapor products dealer registration has been revoked and where such revocation is still in effect, unless the applicant or vapor products dealer provides the commissioner with adequate documentation demonstrating that such applicant or vapor products dealer acquired the premises or business through an arm's length transaction as defined in paragraph (e) of subdivision one of section four hundred eighty-a of this chapter.

(2) In addition to the grounds provided in paragraph one of this subdivision, the commissioner shall refuse to issue a certificate of registration and shall cancel or suspend a certificate of registration as directed by an enforcement officer pursuant to article thirteen-F of the public health law. Notwithstanding any provision of law to the

contrary, an applicant whose application for a certificate of registration is refused or a vapor products dealer whose registration is cancelled or suspended under this paragraph shall have no right to a hearing under this chapter and shall have no right to commence a court action or proceeding or to any other legal recourse against the commissioner with respect to such refusal, suspension or cancellation; provided, however, that nothing herein shall be construed to deny a vapor products dealer a hearing under article thirteen-F of the public health law or to prohibit vapor products dealers from commencing a court action or proceeding against an enforcement officer as defined in section thirteen hundred ninety-nine-aa of the public health law.

(e) If a vapor products dealer is suspended, cancelled or revoked and such vapor products dealer sells vapor products through more than one place of business in this state, the vapor products dealer's certificate of registration issued to that place of business, cart, stand, truck or other merchandising device, where such violation occurred, shall be suspended, revoked or cancelled. Provided, however, upon a vapor products dealer's third suspension, cancellation or revocation within a five-year period for any one or more businesses owned or operated by the vapor products dealer, such suspension, cancellation, or revocation of the vapor products dealer's certificate of registration shall apply to all places of business where he or she sells vapor products in this state.

(f) Every holder of a certificate of registration must notify the commissioner of changes to any of the information stated on the certificate or changes to any information contained in the application for the certificate of registration. Such notification must be made on or before the last day of the month in which a change occurs and must be made electronically on a form prescribed by the commissioner.

(g) Every vapor products dealer who holds a certificate of registration under this article shall be required to reapply for a certificate of registration for the following calendar year on or before the twentieth day of September and such reapplication shall be subject to the same requirements and conditions, including grounds for refusal, as an initial registration under this article, including but not limited to the payment of the three hundred dollar application fee for each retail location.

(h) In addition to any other penalty imposed by this chapter, any vapor products dealer who violates the provisions of this section, (1) for a first violation is liable for a civil fine not less than five thousand dollars but not to exceed twenty-five thousand dollars and such certificate of registration may be suspended for a period of not more than six months; and (2) for a second or subsequent violation within three years following a prior violation of this section, is liable for a civil fine not less than ten thousand dollars but not to exceed thirty-five thousand dollars and such certificate of registration may be suspended for a period of up to thirty-six months; or (3) for a third violation within a period of five years, its vapor products certificate or certificates of registration issued to each place of business owned or operated by the vapor products dealer in this state, shall be revoked for a period of up to five years.

§ 1184. Administrative provisions. (a) Except as otherwise provided for in this article, the taxes imposed by this article shall be administered and collected in a like manner as and jointly with the taxes imposed by sections eleven hundred five and eleven hundred ten of this chapter. In addition, except as otherwise provided in this article, all

of the provisions of article twenty-eight of this chapter (except sections eleven hundred seven, eleven hundred eight, eleven hundred nine, and eleven hundred forty-eight) relating to or applicable to the administration, collection and review of the taxes imposed by such sections eleven hundred five and eleven hundred ten, including, but not limited to, the provisions relating to definitions, returns, exemptions, penalties, tax secrecy, personal liability for the tax, and collection of tax from the customer, shall apply to the taxes imposed by this article so far as such provisions can be made applicable to the taxes imposed by this article with such limitations as set forth in this article and such modifications as may be necessary in order to adapt such language to the taxes so imposed. Such provisions shall apply with the same force and effect as if the language of those provisions had been set forth in full in this article except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to the taxes imposed by this article.

(b) Notwithstanding the provisions of subdivision (a) of this section, the exemptions provided in paragraph ten of subdivision (a) of section eleven hundred fifteen of this chapter, and the provisions of section eleven hundred sixteen, except those provided in paragraphs one, two, three and six of subdivision (a) of such section, shall not apply to the taxes imposed by this article.

(c) Notwithstanding the provisions of this section or section eleven hundred forty-six of this chapter, the commissioner may, in his or her discretion, permit the commissioner of health or his or her authorized representative to inspect any return related to the tax imposed by this article and may furnish to the commissioner of health any such return or supply him or her with information concerning an item contained in any such return, or disclosed by any investigation of a liability under this article.

§ 1185. Criminal penalties. The criminal penalties in sections eighteen hundred one through eighteen hundred seven and eighteen hundred seventeen of this chapter shall apply to this article with the same force and effect as if the language of those provisions had been set forth in full in this article except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to the taxes imposed by this article.

§ 1186. Deposit and disposition of revenue. The taxes, interest, and penalties imposed by this article and collected or received by the commissioner shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, to the credit of the comptroller in trust for the tobacco control and insurance initiatives pool established by section ninety-two-dd of the state finance law and distributed by the commissioner of health in accordance with section twenty-eight hundred seven-v of the public health law. Such deposits will be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds under this article. Provided, however that the commissioner is authorized and directed to deduct from the amounts he or she receives from the registration fees under section eleven hundred eighty-three of this article, before deposit into the tobacco control and insurance initiatives pool, a reasonable amount necessary to effectuate refunds of 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-

late and control the cultivation, processing, manufacture, wholesale, and retail production, distribution, transportation, and sale of cannabis, cannabis products, medical cannabis, and hemp cannabis within the state of New York, for the purposes of fostering and promoting temperance in their consumption, to properly protect the public health, safety, and welfare, and to promote social equality. It is hereby declared that such policy will best be carried out by empowering the state office of cannabis management and its executive director, to determine whether public convenience and advantage will be promoted by the issuance of registrations, licenses and/or permits granting the privilege to produce, distribute, transport, sell, or traffic in cannabis, medical cannabis, or hemp cannabis, to increase or decrease in the number thereof and the location of premises registered, licensed, or permitted thereby, subject only to the right of judicial review hereinafter provided for. It is the purpose of this chapter to carry out that policy in the public interest. The restrictions, regulations, and provisions contained in this chapter are enacted by the legislature for the protection of the health, safety, and welfare of the people of the state.

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

1. "Applicant" means a for-profit entity or not-for-profit corporation and includes: board members, officers, managers, owners, partners, principal stakeholders and members who submit an application to become a registered organization, licensee or permittee.

2. "Bona fide cannabis retailer association" shall mean an association of retailers holding licenses under this chapter, organized under the non-profit or not-for-profit laws of this state.

3. "Cannabis" means all parts of the 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.

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

5. "Cannabis consumer" means a person, twenty-one years of age or older, who purchases cannabis or cannabis products for personal use by persons twenty-one years of age or older, but not for resale to others.

6. "Adult-use cannabis processor" means a person licensed by the office to purchase cannabis and concentrated cannabis from cannabis cultivators, to process cannabis, concentrated cannabis, and cannabis infused products, package and label cannabis, concentrated cannabis and cannabis infused products for sale in retail outlets, and sell cannabis, concentrated cannabis and cannabis infused products at wholesale to licensed adult-use cannabis distributors.

7. "Cannabis product" or "adult-use cannabis" means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

8. "Adult-use cannabis retail dispenser" means a person licensed by the executive director to purchase cannabis, concentrated cannabis, and

cannabis-infused products from cannabis processors and cannabis distributors, and sell cannabis, concentrated cannabis and cannabis-infused products in a retail outlet.

9. "Certified medical use" means the acquisition, possession, use, or transportation of medical cannabis by a certified patient, or the acquisition, possession, delivery, transportation or administration of medical cannabis by a designated caregiver or designated caregiver facility, for use as part of the treatment of the patient's serious condition, as authorized in a certification under this chapter including enabling the patient to tolerate treatment for the serious condition.

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

11. "Certified patient" means a patient who is a resident of New York state or receiving care and treatment in New York state as determined by the executive director in regulation, and is certified under section thirty of this chapter.

12. "Certification" means a certification, made under this chapter.

13. "Cultivation" shall include, the planting, growing, cloning, harvesting, drying, curing, grading and trimming of cannabis, or such other cultivation related processes as determined by the executive director in regulation.

14. "Executive director" means the executive director of the office of cannabis management.

15. "Convicted" and "conviction" include and mean a finding of guilt resulting from a plea of guilty, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof.

16. "Designated caregiver" means an individual designated by a certified patient in a registry application. A certified patient may designate up to five designated caregivers.

17. "Designated caregiver facility" means a general hospital or residential health care facility operating pursuant to article twenty-eight of the public health law; an adult care facility operating pursuant to title two of article seven of the social services law; a community mental health residence established pursuant to section 41.44 of the mental hygiene Law; a hospital operating pursuant to section 7.17 of the mental hygiene law; a mental hygiene facility operating pursuant to article thirty-one of the mental hygiene law; an inpatient or residential treatment program certified pursuant to article thirty-two of the mental hygiene law; a residential facility for the care and treatment of persons with developmental disabilities operating pursuant to article sixteen of the mental hygiene law; a residential treatment facility for children and youth operating pursuant to article thirty-one of the mental hygiene law; a private or public school; research institution with an internal review board; or any other facility as determined by the executive director in regulation; that registers with the office of cannabis management to assist one or more certified patients with the acquisition, possession, delivery, transportation or administration of medical cannabis.

18. "Felony" means any criminal offense classified as a felony under the laws of this state or any criminal offense committed in any other state, district, or territory of the United States and classified as a felony therein which if committed within this state, would constitute a felony in this state.

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

20. "Government agency" means any office, division, board, bureau, commission, office, agency, authority or public corporation of the state or federal government or a county, city, town or village government within the state.

21. "Industrial hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis, used or intended for an industrial purpose or those food and/or food ingredients that are generally recognized as safe, as further defined and regulated in the agriculture and markets law.

22. "Hemp cannabis" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the office in regulation, used or intended for human or animal consumption or use for its cannabinoid content, as determined by the executive director in regulation. Hemp cannabis excludes industrial hemp used or intended exclusively for an industrial purpose and those food and/or food ingredients that are generally recognized as safe, as governed by the Agriculture and Markets Law, and shall not be regulated as "hemp" or "hemp cannabis" within the meaning of this section.

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

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

25. "Individual dose" means a single measure of raw cannabis, medical cannabis or non-infused concentrate or medical concentrate.

26. "Labor peace agreement" means an agreement between an entity and a labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the registered organization or licensee's business.

27. "License" means a license issued pursuant to this chapter.

28. "Medical cannabis" means cannabis as defined in subdivision three of this section, intended for a certified medical use, as determined by the executive director in consultation with the commissioner of health.

30. "Office" or "office of cannabis management" means the New York state office of cannabis management.

31. "Permit" means a permit issued pursuant to this chapter.

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

33. "Person" means individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

34. "Practitioner" means a practitioner who: (i) is authorized to prescribe controlled substances within the state, (ii) by training or experience is qualified to treat a serious condition as defined in subdivision forty-four of this section; and (iii) completes, at a minimum, a two-hour course as determined by the executive director in regulation; provided however, the executive director may revoke a practitioner's ability to certify patients for cause.

35. "Processing" includes, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing cannabis products, or such other related processes as determined by the executive director in regulation. Processing shall not include the cultivation of cannabis.

36. "Public place" means a public place as defined in regulation by the executive director.

37. "Registered organization" means an organization registered under article three of this chapter.

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

39. "Registry identification card" means a document that identifies a certified patient or designated caregiver, as provided under section thirty-two of this chapter.

40. "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

41. "Retailer" means any person who sells at retail any cannabis product, the sale of which a license is required under the provisions of this chapter.

42. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee of any cannabis product.

43. "To sell" includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell and shall include the transportation or delivery of any cannabis product in the state.

44. "Serious condition" means having one of the following severe debilitating or life-threatening conditions: cancer, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, post-traumatic stress disorder, pain that degrades health and functional capability where the use of medical cannabis is an alternative to opioid use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthritis, autism, any condition authorized as part of a cannabis research license, or any other condition as added by the executive director.

45. "Traffic in" includes to cultivate, process, manufacture, distribute or sell any cannabis, cannabis product, medical cannabis or hemp at wholesale or retail.

46. "Terminally ill" means an individual has a medical prognosis that the individual's life expectancy is approximately one year or less if the illness runs its normal course.

47. "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

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

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

ARTICLE 2
NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

Section 9. Establishment of an office of cannabis management.
10. Executive director.
11. Executive director's authority.
12. Rulemaking authority.
13. State cannabis advisory board.
14. Disposition of moneys received for license fees.
15. Legal presumptions.
16. Violations of cannabis laws or regulations; penalties and injunctions.
17. Formal hearings; notice and procedure.
18. Ethics, transparency and accountability.
19. Public health management campaign.

§ 9. Establishment of an office of cannabis management. Pursuant to a chapter of the laws of two thousand nineteen which added this chapter, there is hereby established, within the division of alcoholic beverage control, an independent office of cannabis management, which shall have exclusive jurisdiction to exercise the powers and duties provided by this chapter. The office shall exercise its authority by and through an executive director.

§ 10. Executive director. The executive director of the state office of cannabis management shall receive an annual salary not to exceed an amount appropriated therefor by the legislature and his or her expenses actually and necessarily incurred in the performance of his official duties, unless otherwise provided by the legislature.

§ 11. Functions, powers and duties of the office and executive director. The office of cannabis management, by and through its executive director, shall have the following powers and duties:

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

2. To limit, or not to limit, in the executive director's discretion, the number of registrations, licenses and permits of each class to be issued within the state or any political subdivision thereof, and in connection therewith to prohibit the acceptance of applications for such classes which have been so limited.

3. To revoke, cancel or suspend for cause any registration, license, or permit issued under this chapter and/or to impose a civil penalty for cause against any holder of a registration, license, or permit issued pursuant to this chapter. Any civil penalty so imposed shall be in addition to and separate and apart from the terms and provisions of the bond required pursuant to section thirty-six of this chapter.

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

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

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

6. To limit or prohibit, at any time of public emergency and without previous notice or advertisement, the cultivation, processing, distribution or sale of any or all cannabis products, medical cannabis or hemp cannabis, for and during the period of such emergency.

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

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

9. To inspect or provide for the inspection at any time of any premises where cannabis or hemp cannabis is cultivated, processed, stored, distributed or sold.

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

11. To delegate the powers provided in this section to such other officers or employees or other state agencies as may be deemed appropriate by the executive director.

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

13. To exercise the powers and perform the duties in relation to the administration of the office as are necessary but not specifically vested by this chapter, including but not limited to budgetary and fiscal matters.

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

15. To enter into contracts, memoranda of understanding, and agreements as deemed appropriate by the executive director to effectuate the policy and purpose of this chapter.

16. To issue and administer low interest or zero-interest loans to qualified social equity applicants provided the office has sufficient funds available for such purposes.

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

18. To issue regulations, declaratory rulings, guidance and industry advisories.

§ 12. Rulemaking authority. 1. The office shall perform such acts, prescribe such forms and propose such rules, regulations and orders as

it may deem necessary or proper to fully effectuate the provisions of this chapter.

2. The office shall have the power to promulgate any and all necessary rules and regulations governing the production, processing, transportation, distribution, and sale of medical cannabis, recreational cannabis, and hemp cannabis, including but not limited to the registration of organizations authorized to traffic in medical cannabis, the licensing and/or permitting of adult-use cannabis cultivators, processors, cooperatives, distributors, and retail dispensaries, and the licensing of cannabinoid growers and extractors, including, but not limited to:

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

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

(c) the books and records to be created and maintained by registered organizations, licensees, and permittees, including the reports to be made thereon to the office, and inspection of any and all books and records maintained by any registered organization, licensee, or permitee and on the premise of any registered organization, licensee, or permittee;

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

(e) security requirements for adult-use cannabis retail dispensaries and premises where cannabis products, medical cannabis, and hemp cannabis, are cultivated, produced, processed, or stored, and safety protocols for registered organizations, licensees and their employees; and

(f) hearing procedures and additional causes for cancellation, revocation, and/or civil penalties against any person registered, licensed, or permitted by the authority.

3. The office shall promulgate rules and regulations that are calculated to:

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

(b) prevent the revenue from the sale of cannabis from going to criminal enterprises, gangs, and cartels;

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

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

(e) prevent violence and the use of firearms in the cultivation and distribution of cannabis;

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

(g) prevent the growing of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands; and

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

4. The office, in consultation with the department of agriculture and markets and the department of environmental conservation, shall promulgate necessary rules and regulations governing the safe production of cannabis, including environmental and energy standards and restrictions on the use of pesticides.

§ 13. State cannabis advisory board. 1. The executive director shall have the authority to establish within the office a state cannabis advisory board, which may advise the office on cannabis cultivation, processing, distribution, transport, testing and sale and consider all matters submitted to it by the executive director.

2. The executive director of the office shall serve as the chairperson of the board. The vice chairperson shall be elected from among the members of the board by the members of such board, and shall represent the board in the absence of the chairperson at all official board functions.

3. The members of the board shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties as board members.

4. The executive director shall be authorized to promulgate regulations establishing the number of members on the board, the term of the board members and any other terms or conditions regarding the state cannabis advisory board.

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

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

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

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

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

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

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

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

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

4. Nothing in this section shall be construed to alter or repeal any existing provision of law declaring such violations to be misdemeanors or felonies or prescribing the penalty therefor.

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

6. It shall be the duty of the attorney general upon the request of the executive director to bring an action for an injunction against any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto; provided, however, that the executive director shall furnish the attorney general with such material, evidentiary matter or proof as may be requested by the attorney general for the prosecution of such an action.

7. It is the purpose of this section to provide additional and cumulative remedies, and nothing herein contained shall abridge or alter rights of action or remedies now or hereafter existing, nor shall any provision of this section, nor any action done by virtue of this section, be construed as estopping the state, persons or municipalities in the exercising of their respective rights.

§ 17. Formal hearings; notice and procedure. 1. The executive director, or any person designated by him or her for this purpose, may issue subpoenas and administer oaths in connection with any hearing or investigation under or pursuant to this chapter, and it shall be the duty of the executive director and any persons designated by him or her for such purpose to issue subpoenas at the request of and upon behalf of the respondent.

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

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

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

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

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

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

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

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

§ 18. Ethics, transparency and accountability. No member of the office or any officer, deputy, assistant, inspector or employee thereof shall have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where cannabis, medical cannabis or hemp is cultivated, processed, distributed or sold; nor shall he or she have any interest, direct or indirect, in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of cannabis, medical cannabis or hemp, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where cannabis, medical cannabis or hemp is cultivated, processed, distributed or sold, or in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of cannabis, medical cannabis or hemp, or receive any commission or profit whatsoever, direct or indirect, from any person applying for or receiving any license or permit provided for in this chapter, or hold any other elected or appointed public office in the state or in any political subdivision. Anyone who violates any of the provisions of this section shall be removed or shall divulge him or herself of such direct or indirect interests.

§ 19. Public health campaign. The office, in consultation with the commissioners of the department of health, office of alcoholism and substance abuse services and office of mental health, shall develop and implement a comprehensive public health campaign regarding adult-use cannabis.

ARTICLE 3
MEDICAL CANNABIS

Section 30. Certification of patients.
31. Lawful medical use.
32. Registry identification cards.
33. Registration as a designated caregiver facility.
34. Registered organizations.
35. Registering of registered organizations.
36. Expedited registration of registered organizations.
37. Reports of registered organizations.
38. Evaluation; research programs; report by office.
39. Cannabis research license.
40. Registered organizations and adult-use cannabis.
41. Home cultivation of medical cannabis.
42. Relation to other laws.
43. Protections for the medical use of cannabis.
44. Regulations.
45. Suspend; terminate.
46. Pricing.
47. Severability.

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

(a) the patient has a serious condition, which shall be specified in the patient's health care record;

(b) the practitioner by training or experience is qualified to treat the serious condition;

(c) the patient is under the practitioner's continuing care for the serious condition; and

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

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

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

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

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

6. No practitioner shall issue a certification under this section for himself or herself.

7. A registry identification card based on a certification shall expire one year after the date the certification is signed by the practitioner.

8. (a) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified earlier date, then the registry identification card shall expire on that date; (b) if the practitioner states in the certification that in the practitioner's professional opinion the patient is terminally ill and that the certification shall not expire until the patient dies, then the registry identification card shall state that the patient is terminally ill and that the registration card shall not expire until the patient dies; (c) if the practitioner re-issues the certification to terminate the certification on an earlier date, then the registry identification card shall expire on that date

and shall be promptly destroyed by the certified patient; (d) if the certification so provides, the registry identification card shall state any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient; and (e) the executive director shall make regulations to implement this subdivision.

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

(a) the cannabis that may be possessed by a certified patient shall not exceed a sixty-day supply of the dosage as determined by the practitioner, consistent with any guidance and regulations issued by the executive director, provided that during the last seven days of any sixty-day period, the certified patient may also possess up to such amount for the next sixty-day period;

(b) the cannabis that may be possessed by designated caregivers does not exceed the quantities referred to in paragraph (a) of this subdivision for each certified patient for whom the caregiver possesses a valid registry identification card, up to five certified patients;

(c) the cannabis that may be possessed by designated caregiver facilities does not exceed the quantities referred to in paragraph (a) of this subdivision for each certified patient under the care or treatment of the facility;

(d) the form or forms of medical cannabis that may be possessed by the certified patient, designated caregiver or designated caregiver facility pursuant to a certification shall be in compliance with any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient in the certification; and

(e) the medical cannabis shall be kept in the original package in which it was dispensed under this article, except for the portion removed for immediate consumption for certified medical use by the certified patient.

§ 32. Registry identification cards. 1. Upon approval of the certification, the office shall issue registry identification cards for certified patients and designated caregivers. A registry identification card shall expire as provided in this article or as otherwise provided in this section. The office shall begin issuing registry identification cards as soon as practicable after the certifications required by this chapter are granted. The office may specify a form for a registry application, in which case the office shall provide the form on request, reproductions of the form may be used, and the form shall be available for downloading from the office's website.

2. To obtain, amend or renew a registry identification card, a certified patient or designated caregiver shall file a registry application with the office, unless otherwise exempted by the executive director in regulation. The registry application or renewal application shall include:

(a) in the case of a certified patient:

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

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

(iii) the date of the certification;

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

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

(vi) the name, address, and telephone number of the certifying practitioner;

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

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

(ix) other individual identifying information required by the office;

(b) in the case of a designated caregiver:

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

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

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

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

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

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

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

(a) The application for a registry identification card shall be made by an appropriate person over eighteen years of age. The application shall state facts demonstrating that the person is appropriate.

(b) The designated caregiver shall be: (i) a parent or legal guardian of the certified patient; (ii) a person designated by a parent or legal guardian; (iii) a designated caregiver facility; or (iv) an appropriate person approved by the office upon a sufficient showing that no parent or legal guardian is appropriate or available.

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

5. No person may be a designated caregiver for more than five certified patients at one time.

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

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

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

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

10. A registry identification card shall:

(a) contain the name of the certified patient or the designated caregiver as the case may be;

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

(c) contain a registry identification number for the certified patient or designated caregiver, as the case may be and a registry identification number;

(d) contain a photograph of the individual to whom the registry identification card is being issued, which shall be obtained by the office in a manner specified by the executive director in regulations; provided, however, that if the office requires certified patients to submit photographs for this purpose, there shall be a reasonable accommodation of certified patients who are confined to their homes due to their medical conditions and may therefore have difficulty procuring photographs;

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

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

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

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

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

13. The office shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual identifying information obtained by the office under this article shall be confidential and exempt from disclosure under article six of the public officers law. Notwithstanding this subdivision, the office may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this article.

14. The office shall verify to law enforcement personnel in an appropriate case whether a registry identification card is valid.

15. If a certified patient or designated caregiver willfully violates any provision of this article as determined by the executive director, his or her certification and registry identification card may be suspended or revoked. This is in addition to any other penalty that may apply.

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

(a) the facility's full name and address;
(b) operating certificate or license number where appropriate;
(c) printed name, title, and signature of an authorized facility representative;
(d) a statement that the facility agrees to secure and ensure proper handling of all medical cannabis products;
(e) an acknowledgement that a false statement in the application is punishable under section 210.45 of the penal law; and
(f) any other information that may be required by the executive director.

2. Prior to issuing or renewing a designated caregiver facility registration, the office may verify the information submitted by the applicant. The applicant shall provide, at the office's request, such information and documentation, including any consents or authorizations that may be necessary for the office to verify the information.

3. The office shall approve, deny or determine incomplete or inaccurate an initial or renewal application within thirty days of receipt of the application. If the application is approved within the 30-day period, the office shall issue a registration as soon as is reasonably practicable.

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

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

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

2. The acquiring, possession, manufacture, sale, delivery, transporting, distributing or dispensing of medical cannabis by a registered organization under this article in accordance with its registration under this article or a renewal thereof shall be lawful under this chapter.

3. Each registered organization shall contract with an independent laboratory permitted by the office to test the medical cannabis produced by the registered organization. The executive director shall approve the laboratory used by the registered organization and may require that the registered organization use a particular testing laboratory.

4. (a) A registered organization may lawfully, in good faith, sell, deliver, distribute or dispense medical cannabis to a certified patient or designated caregiver upon presentation to the registered organization of a valid registry identification card for that certified patient or designated caregiver. When presented with the registry identification card, the registered organization shall provide to the certified patient or designated caregiver a receipt, which shall state: the name, address, and registry identification number of the registered organization; the name and registry identification number of the certified patient and the designated caregiver, if any; the date the cannabis was sold; any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient; and the form and the quantity of medical cannabis sold. The registered organization shall

retain a copy of the registry identification card and the receipt for six years.

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

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

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

(c) Medical cannabis dispensed to a certified patient or designated caregiver by a registered organization shall conform to any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient.

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

(a) methods for administering medical cannabis in individual doses,

(b) any potential dangers stemming from the use of medical cannabis,

(c) how to recognize what may be problematic usage of medical cannabis and obtain appropriate services or treatment for problematic usage, and

(d) other information as determined by the executive director.

7. Registered organizations shall not be managed by or employ anyone who has been convicted of any felony other than for the sale or possession of drugs, narcotics, or controlled substances, and provided that this subdivision only applies to (a) managers or employees who come into contact with or handle medical cannabis, and (b) a conviction less than ten years, not counting time spent in incarceration, prior to being employed, for which the person has not received a certificate of relief from disabilities or a certificate of good conduct under article twenty-three of the correction law.

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

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

10. A registered organization shall determine the quality, safety, and clinical strength of medical cannabis manufactured or dispensed by the registered organization, and shall provide documentation of that quali-

ty, safety and clinical strength to the office and to any person or entity to which the medical cannabis is sold or dispensed.

11. A registered organization shall be deemed to be a "health care provider" for the purposes of article two-D of article two of the public health law.

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

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

§ 35. Registering of registered organizations. 1. Application for initial registration. (a) An applicant for registration as a registered organization under section thirty-four of this article shall include such information prepared in such manner and detail as the executive director may require, including but not limited to:

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

(ii) that the applicant:

(A) is of good moral character;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) the applicant and its managing officers are of good moral character;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the applicant is unlikely to comply with all state laws applicable to the activities in which it may engage under the registration;

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

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

(b) For purposes of this section, proof that a registered organization, during the period of its registration, has failed to maintain effective control against diversion, violates any provision of this article, or has knowingly or negligently failed to comply with applicable state laws relating to the activities in which it engages under the registration, shall constitute grounds for suspension, termination or limitation of the registered organization's registration or as determined by the executive director. The registered organization shall also be under a continuing duty to report to the authority any material change or fact or circumstance to the information provided in the registered organization's application.

7. The office may suspend or terminate the registration of a registered organization, on grounds and using procedures under this article relating to a license, to the extent consistent with this article. The authority shall suspend or terminate the registration in the event that a registered organization violates or terminates the applicable labor peace agreement. Conduct in compliance with this article which may violate conflicting federal law, shall not be grounds to suspend or terminate a registration.

8. The office shall begin issuing registrations for registered organizations as soon as practicable after the certifications required by this article are given.

9. The executive director shall register at least ten registered organizations that manufacture medical cannabis with no more than four dispensing sites wholly owned and operated by such registered organization. The executive director shall ensure that such registered organizations and dispensing sites are geographically distributed across the state. The executive director may register additional registered organizations.

§ 36. Expedited registration of registered organizations. 1. There is hereby established in the office an emergency medical cannabis access program, referred to in this section as the "program", under this section. The purpose of the program is to expedite the availability of medical cannabis to avoid suffering and loss of life, during the period before full implementation of and production under this article, especially in the case of patients whose serious condition is progressive and degenerative or is such that delay in the patient's medical use of cannabis poses a serious risk to the patient's life or health. The executive director shall implement the program as expeditiously as practicable, including by emergency regulation.

2. For the purposes of this section, and for specified limited times, the executive director may waive or modify the requirements of this article relating to registered organizations, consistent with the legislative intent and purpose of this article and this section. Where an entity seeking to be a registered organization under the program operates in a jurisdiction other than the state of New York, under licensure or other governmental recognition of that jurisdiction, and the laws of that jurisdiction are acceptable to the executive director as consistent with the legislative intent and purpose of this article and this section, then the executive director may accept that licensure or recognition as wholly or partially satisfying the requirements of this arti-

cle, for purposes of the registration and operation of the registered organization under the program and this section.

3. In considering an application for registration as a registered organization under this section, the executive director shall give preference to the following:

(a) an applicant that is currently producing or providing or has a history of producing or providing medical cannabis in another jurisdiction in full compliance with the laws of the jurisdiction;

(b) an applicant that is able and qualified to both produce, distribute, and dispense medical cannabis to patients expeditiously; and

(c) an applicant that proposes a location or locations for dispensing by the registered organization, which ensure, to the greatest extent possible, that certified patients have access to a registered organization.

4. The executive director may make regulations under this section:

(a) limiting registered organizations registered under this section; or

(b) limiting the allowable levels of cannabidiol and tetrahydrocannabinol that may be contained in medical cannabis authorized under this article, based on therapeutics and patient safety.

5. A registered organization under this section may apply under this article to receive or renew registration.

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

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

§ 38. Evaluation; research programs; report by office. 1. The executive director may provide for the analysis and evaluation of the operation of this title. The executive director may enter into agreements with one or more persons, not-for-profit corporations or other organizations, for the performance of an evaluation of the implementation and effectiveness of this title.

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

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

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

(a) to test chemical potency and composition levels;

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

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

(d) to conduct genomic or agricultural research.

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

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

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

(c) whether the amount of cannabis to be grown or purchased by the applicant is consistent with the project's scope and goals. If the office determines that the research project does not meet the requirements of subsection one of this section, the application must be denied.

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

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

5. In establishing a cannabis research license, the executive director may adopt regulations on the following:

(a) application requirements;

(b) cannabis research license renewal requirements, including whether additional research projects may be added or considered;

(c) conditions for license revocation;

(d) security measures to ensure cannabis is not diverted to purposes other than research;

(e) amount of plants, useable cannabis, cannabis concentrates, or cannabis-infused products a licensee may have on its premises;

(f) licensee reporting requirements;

(g) conditions under which cannabis grown by licensed cannabis producers and other product types from licensed cannabis processors may be donated to cannabis research licensees; and

(h) any additional requirements deemed necessary by the office.

6. A cannabis research license issued pursuant to this section must be issued in the name of the applicant, specify the location at which the cannabis researcher intends to operate, which must be within the state of New York, and the holder thereof may not allow any other person to use the license.

7. The application fee for a cannabis research license shall be determined by the executive director on an annual basis.

8. Each cannabis research licensee shall issue an annual report to the office. The office shall review such report and make a determination as to whether the research project continues to meet the research qualifications under this section.

§ 40. Registered organizations and adult-use cannabis. 1. The executive director shall have the authority to grant some or all of the registered organizations previously registered with the department of health and currently registered and in good standing with the office, the ability to be licensed to cultivate, process, distribute and sell adult-use cannabis and cannabis products, pursuant to any fees, rules or conditions prescribed by the executive director in regulation, but

exempt from the restrictions on licensed adult-use cultivators, processors, and distributors from having any ownership interest in a licensed adult-use retail dispensary pursuant to article four of this chapter.

2. The office shall have the authority to hold a competitive bidding process, including an auction, to determine the registered organization(s) authorized to be licensed to cultivate, process, distribute and sell adult-use cannabis and to collect the fees generated from such auction to administer incubators and low or zero-interest loans to qualified social equity applicants. The timing and manner in which registered organizations may be granted such authority shall be determined by the executive director in regulation.

3. Alternatively, registered organizations may apply for licensure as an adult-use cannabis cultivator, adult-use cannabis processor, and adult-use cannabis distributor, or apply for licensure as an adult-use cannabis retail dispensary, subject to all of the restrictions and limitations set forth in article four of this chapter.

§ 41. Home cultivation of medical cannabis. 1. Certified patients and their designated caregiver(s) twenty-one years of age or older may apply for registration with the office to grow, possess or transport no more than four cannabis plants per certified patient with no more than eight cannabis plants per household.

2. All medical cannabis cultivated at home must be grown in an enclosed, locked space, not open or viewable to the public. Such homegrown medical cannabis must only be for use by the certified patient and may not be distributed, sold, or gifted.

3. The executive director shall develop rules and regulations governing this section.

§ 42. Relation to other laws. 1. The provisions of this article shall apply, except that where a provision of this article conflicts with another provision of this chapter, this article shall apply.

2. Medical cannabis shall not be deemed to be a "drug" for purposes of article one hundred thirty-seven of the education law.

§ 43. Protections for the medical use of cannabis. 1. Certified patients, designated caregivers, designated caregiver facilities, practitioners, registered organizations and the employees of registered organizations, and cannabis researchers shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for the certified medical use or manufacture of cannabis, or for any other action or conduct in accordance with this article.

2. Being a certified patient shall be deemed to be having a "disability" under article fifteen of the executive law, section forty-c of the civil rights law, sections 240.00, 485.00, and 485.05 of the penal law, and section 200.50 of the criminal procedure law. This subdivision shall not bar the enforcement of a policy prohibiting an employee from performing his or her employment duties while impaired by a controlled substance. This subdivision shall not require any person or entity to do any act that would put the person or entity in direct violation of federal law or cause it to lose a federal contract or funding.

3. The fact that a person is a certified patient and/or acting in accordance with this article, shall not be a consideration in a proceeding pursuant to applicable sections of the domestic relations law, the social services law and the family court act.

4. (a) Certification applications, certification forms, any certified patient information contained within a database, and copies of registry

identification cards shall be deemed exempt from public disclosure under sections eighty-seven and eighty-nine of the public officers law.

(b) The name, contact information, and other information relating to practitioners registered with the office under this article shall be public information and shall be maintained by the executive director on the office's website accessible to the public in searchable form. However, if a practitioner notifies the office in writing that he or she does not want his or her name and other information disclosed, that practitioner's name and other information shall thereafter not be public information or maintained on the office's website, unless the practitioner cancels the request.

§ 44. Regulations. The executive director shall make regulations to implement this article.

§ 45. Suspend; terminate. Based upon the recommendation of the executive director and/or the superintendent of state police that there is a risk to the public health or safety, the governor may immediately terminate all licenses issued to registered organizations.

§ 46. Pricing. 1. Every sale of medical cannabis shall be at or below the price approved by the executive director. Every charge made or demanded for medical cannabis not in accordance with the price approved by the executive director, is prohibited.

2. The executive director is hereby authorized to set the per dose price of each form of medical cannabis sold by any registered organization. In reviewing the per dose price of each form of medical cannabis, the executive director may consider the fixed and variable costs of producing the form of cannabis and any other factor the executive director, in his or her discretion, deems relevant in reviewing the per dose price of each form of medical cannabis.

§ 47. Severability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

ARTICLE 4
ADULT-USE CANNABIS

Section 60. Licenses issued.
61. License application.
62. Information to be requested in applications for licenses.
63. Fees.
64. Selection criteria.
65. Limitations of licensure; duration.
66. License renewal.
67. Amendments; changes in ownership and organizational structure.
68. Adult-use cultivator license.
69. Adult-use processor license.
70. Adult-use cooperative license.
71. Adult-use distributor license.
72. Adult-use retail dispensary license.
73. Notification to municipalities of adult-use retail dispensary.

74. On-site consumption license; provisions governing on-site consumption licenses.
75. Record keeping and tracking.
76. Inspections and ongoing requirements.
77. Adult-use cultivators, processors or distributors not to be interested in retail dispensaries.
78. Packaging and labeling of adult-use cannabis products.
79. Laboratory testing.
80. Provisions governing the cultivation and processing of adult-use cannabis.
81. Provisions governing the distribution of adult-use cannabis.
82. Provisions governing adult-use cannabis retail dispensaries.
83. Adult-use cannabis advertising.
84. Minority, women-owned businesses and disadvantaged farmers; incubator program.
85. Regulations.

§ 60. Licenses issued. The following kinds of licenses shall be issued by the executive director for the cultivation, processing, distribution and sale of cannabis to cannabis consumers:

1. Adult-use cultivator license;
2. Adult-use processor license;
3. Adult-use cooperative license;
4. Adult-use distributor license;
5. Adult-use retail dispensary license;
6. On-site consumption license; and
7. Any other type of license as prescribed by the executive director in regulation.

§ 61. License Application. 1. Any person may apply to the office for a license to cultivate, process, distribute or dispense cannabis within this state for sale. Such application shall be in writing and verified and shall contain such information as the office shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the office shall approve the application, it shall issue a license in such form as shall be determined by its rules. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to cultivate, process, distribute or dispense cannabis in the premises therein specifically licensed.

2. Except as otherwise provided in this article, a separate license shall be required for each facility at which cultivation, processing, distribution or retail dispensing is conducted.

3. An applicant shall not be denied a license under this article based solely on a conviction for a violation of article two hundred twenty or section 240.36 of the penal law, prior to the date article two hundred twenty-one of the penal law took effect, or a conviction for a violation of article two hundred twenty-one of the penal law after the effective date of this chapter.

§ 62. Information to be requested in applications for licenses. 1. The office shall have the authority to prescribe the manner and form in which an application must be submitted to the office for licensure under this article.

2. The executive director is authorized to adopt regulations, including by emergency rule, establishing information which must be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity, including racial and ethnic diversity; ownership and investment

information, including the corporate structure; evidence of good moral character, including the submission of fingerprints by the applicant to the division of criminal justice services; information about the premises to be licensed; financial statements; and any other information prescribed by in regulation.

3. All license applications shall be signed by the applicant (if an individual), by a managing partner (if a limited liability corporation), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such application shall verify it or affirm it as true under the penalties of perjury.

4. All license or permit applications shall be accompanied by a check, draft or other forms of payment as the office may require or authorize in the amount required by this article for such license or permit.

5. If there be any change, after the filing of the application or the granting of a license, in any of the facts required to be set forth in such application, a supplemental statement giving notice of such change, cost and source of money involved in the change, duly verified, shall be filed with the office within ten days after such change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

6. In giving any notice, or taking any action in reference to a registered organization or licensee of a licensed premises, the office may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon a registered organizations, licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke, cancel or suspend any license, and in the office's determination to approve or deny the license.

7. The office may, in its discretion, waive the submission of any category of information described in this section for any category of license or permit, provided that it shall not be permitted to waive the requirement for submission of any such category of information solely for an individual applicant or applicants.

§ 63. Fees. 1. The office shall have the authority to charge applicants for licensure under this article a non-refundable application fee and/or to auction licenses to bidders determined by the office to be qualified for such licensure based on the selection criteria in section sixty-four of this article. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the office to achieve the policy and purpose of this chapter.

2. The office shall have the authority to charge licensees a biennial license fee. Such fee shall be based on the amount of cannabis to be cultivated, processed, distributed and/or dispensed by the licensee or the gross annual receipts of the licensee for the previous license period, and any other factors deemed reasonable and appropriate by the office.

§ 64. Selection criteria. 1. The executive director shall develop regulations for determining whether or not an applicant should be granted the privilege of an adult-use cannabis license, based on, but not limited to, the following criteria:

(a) the applicant will be able to maintain effective control against the illegal diversion of cannabis;

(b) the applicant will be able to comply with all applicable state laws and regulations;

(c) the applicant and its officers are ready, willing, and able to properly carry on the activities for which a license is sought;

(d) the applicant possesses or has the right to use sufficient land, buildings, and equipment to properly carry on the activity described in the application;

(e) it is in the public interest that such license be granted, taking into consideration, but not limited to, the following criteria:

(i) that it is a privilege, and not a right, to cultivate, process, distribute, and sell cannabis;

(ii) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;

(iii) evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;

(iv) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;

(v) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;

(vi) the history of violations under the alcoholic beverage control law or the cannabis law at the location, as well as any pattern of violations under the alcoholic beverage control law or the cannabis law, and reported criminal activity at the proposed premises;

(vii) the effect on the production, price and availability of cannabis and cannabis products; and

(viii) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community;

(f) the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter;

(g) the applicant has entered into a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees, and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure. In evaluating applications from entities with twenty-five or more employees, the office shall give priority to applicants that are a party to a collective bargaining agreement with a bona-fide labor organization in New York or in another state, and uses union labor to construct its licensed facility;

(h) the applicant will contribute to communities, the workforce and people disproportionately harmed by cannabis law enforcement;

(i) if the application is for an adult-use cultivator license, the environmental impact of the facility to be licensed; and

(j) the applicant satisfies any other conditions as determined by the executive director.

2. If the executive director is not satisfied that the applicant should be issued a license, the executive director shall notify the applicant in writing of the specific reason or reasons for denial.

3. The executive director shall have authority and sole discretion to determine the number of licenses issued pursuant to this article.

§ 65. Limitations of licensure; duration. 1. No license of any kind may be issued to a person under the age of twenty-one years, nor shall any licensee employ anyone under the age of twenty-one years.

2. No person shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis to any person, actually or apparently, under the age of twenty-one years, any visibly intoxicated person, or any habitually intoxicated person known to be such by the person authorized to manufacture, traffic, or sell any cannabis.

3. The office shall have the authority to limit, by canopy, plant count, square footage or other means, the amount of cannabis allowed to be grown, processed, distributed or sold by a licensee.

4. All licenses under this article shall expire two years after the date of issue.

§ 66. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefore by the licensee and the payment of the fee for such license as prescribed by this article. In the case of applications for renewals, the office may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license, but in any event the submission of photographs of the licensed premises shall be dispensed with, provided the applicant for such renewal shall file a statement with the office to the effect that there has been no alteration of such premises since the original license was issued. The office may make such rules as it deems necessary, not inconsistent with this chapter, regarding applications for renewals of licenses and permits and the time for making the same.

2. Each applicant must submit to the office documentation of the racial, ethnic, and gender diversity of the applicant's employees and owners prior to a license being renewed. In addition, the office may create a social responsibility framework agreement and make the adherence to such agreement a conditional requirement of license renewal.

3. The office shall provide an application for renewal of a license issued under this article not less than ninety days prior to the expiration of the current license.

4. The office may only issue a renewal license upon receipt of the prescribed renewal application and renewal fee from a licensee if, in addition to the criteria in this section, the licensee's license is not under suspension and has not been revoked.

5. Each applicant must maintain a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure.

§ 67. Amendments; changes in ownership and organizational structure. 1. Licenses issued pursuant to this article shall specify:

(a) the name and address of the licensee;

(b) the activities permitted by the license;

(c) the land, buildings and facilities that may be used for the licensed activities of the licensee;

(d) a unique license number issued by the office to the licensee; and

(e) such other information as the executive director shall deem necessary to assure compliance with this chapter.

2. Upon application of a licensee to the office, a license may be amended to allow the licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the licensee. The fee for such amendment shall be two hundred fifty dollars.

3. A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the executive director. The executive director may promulgate regulations allowing for certain types of changes in ownership without the need for prior written approval.

4. For purposes of this section, "substantial corporate change" shall mean:

(a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; or

(b) for a limited liability company, a change of eighty percent or more of the managing members of the company, or a transfer of eighty percent or more of ownership interest in said company, or an existing member obtaining a cumulative of eighty percent or more of the ownership interest in said company.

§ 68. Adult-use cultivator license. 1. An adult-use cultivator's license shall authorize the acquisition, possession, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed processors in this state. The executive director may establish regulations allowing licensed adult-use cultivators to perform certain types of minimal processing without the need for an adult-use processor license.

2. For purposes of this section, cultivation shall include, but not be limited to, the planting, growing, cloning, harvesting, drying, curing, grading and trimming of cannabis.

3. A person holding an adult-use cultivator's license may apply for, and obtain, one processor's license and one distributor's license.

4. A person holding an adult-use cultivator's license may not also hold a retail dispensary license pursuant to this article and no adult-use cannabis cultivator shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

5. A person holding an adult-use cultivator's license may not hold a license to distribute cannabis under this article unless the licensed cultivator is also licensed as a processor under this article.

6. No person may have a direct or indirect financial or controlling interest in more than one adult-use cultivator license issued pursuant to this chapter.

7. The executive director shall have the authority to issue microbusiness cultivator licenses, allowing microbusiness licensees to cultivate, process, and distribute adult-use cannabis direct to licensed cannabis retailers, under a single license. The executive director shall establish through regulation a production limit of total cannabis cultivated, processed and/or distributed annually for microbusiness cultivator licenses.

§ 69. Adult-use processor license. 1. A processor's license shall authorize the acquisition, possession, processing and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed distributors.

2. For purposes of this section, processing shall include, but not be limited to, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing cannabis products. Processing shall not include the cultivation of cannabis.

3. No processor shall be engaged in any other business on the premises to be licensed; except that nothing contained in this chapter shall prevent a cannabis cultivator, cannabis processor, and cannabis distributor from operating on the same premises and from a person holding all three licenses.

4. No cannabis processor licensee may hold more than three cannabis processor licenses.

5. No adult-use cannabis processor shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

§ 70. Adult-use cooperative license. 1. A cooperative license shall authorize the acquisition, possession, cultivation, processing and sale from the licensed premises of the adult-use cooperative by such licensee to duly licensed distributors and/or retail dispensaries; but not directly to cannabis consumers.

2. To be licensed as an adult-use cooperative, the cooperative must:

(i) be comprised of residents of the state of New York as a limited liability company or limited liability partnership under the laws of the state, or an appropriate business structure as determined by the executive director;

(ii) at least one member of the cooperative must have filed a Federal Schedule F (Form 1040) for three of the past five years; and

(iii) the cooperative must operate according to the seven cooperative principles published by the International Cooperative Alliance in nineteen hundred ninety-five.

3. No person shall be a member of more than one adult-use cooperative licensed pursuant to this section.

4. No person or member of an adult-use cooperative license may have a direct or indirect financial or controlling interest in any other adult-use cannabis license issued pursuant to this chapter.

5. No adult-use cannabis cooperative shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

6. The executive director shall promulgate regulations governing cooperative licenses, including, but not limited to, the establishment of canopy limits on the size and scope of cooperative licensees, and other measures designed to incentivize the use and licensure of cooperatives.

§ 71. Adult-use distributor license. 1. A distributor's license shall authorize the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, microbusiness cultivator, or registered organization authorized to sell adult-use cannabis, to duly licensed retail dispensaries.

2. No distributor shall have a direct or indirect economic interest in any adult-use retail dispensary licensed pursuant to this article, or in any registered organization registered pursuant to article three of this chapter. This restriction shall not prohibit a registered organization authorized pursuant to section forty of this chapter, from being granted licensure by the office to distribute adult-use cannabis products cultivated and processed by the registered organization to the registered organization's own licensed adult-use retail dispensaries.

3. Nothing in subdivision two of this section shall prevent a distributor from charging an appropriate fee for the distribution of cannabis, including based on the volume of cannabis distributed.

§ 72. Adult-use retail dispensary license. 1. A retail dispensary license shall authorize the acquisition, possession and sale of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.

2. No person may have a direct or indirect financial or controlling interest in more than three retail dispensary licenses issued pursuant to this chapter. This restriction shall not prohibit a registered organization, authorized pursuant to section forty of this chapter, from being granted licensure by the office to sell adult-use cannabis at locations previously registered by the department of health and in operation as of April first, two thousand nineteen; subject to any conditions, limitations or restrictions established by the office.

3. No person holding a retail dispensary license may also hold an adult-use cultivation, processor, microbusiness cultivator, cooperative or distributor license pursuant to this article.

4. No retail license shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, management agreement or other agreement giving the applicant control over the premises, in writing, for a term not less than the license period.

5. No premises shall be licensed to sell cannabis products, unless said premises shall be located in a store, the principal entrance to which shall be from the street level and located on a public thoroughfare in premises which may be occupied, operated or conducted for business, trade or industry or on an arcade or sub-surface thoroughfare leading to a railroad terminal.

6. No cannabis retail license shall be granted for any premises where a licensee would not be allowed to sell at retail for consumption of alcohol off the premises based on its proximity to a building occupied exclusively as a school, church, synagogue or other place of worship pursuant to the provisions of section one hundred five of the alcohol beverage control law.

§ 73. Notification to municipalities of adult-use retail dispensary. 1. Not less than thirty days nor more than two hundred seventy days before filing an application for licensure as an adult-use cannabis retail dispensary, an applicant shall notify the municipality in which the premises is located of such applicant's intent to file such an application.

2. Such notification shall be made to the clerk of the village, town or city, as the case may be, wherein the premises is located. For purposes of this section:

(a) notification need only be given to the clerk of a village when the premises is located within the boundaries of the village, town or city; and

(b) in the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the premises is located shall be considered the appropriate public body to which notification shall be given.

3. Such notification shall be made in such form as shall be prescribed by the rules of the office.

4. A municipality may express an opinion for or against the granting of such application. Any such opinion shall be deemed part of the record

upon which the office makes its determination to grant or deny the application.

5. Such notification shall be made by: (a) certified mail, return receipt requested; (b) overnight delivery service with proof of mailing; or (c) personal service upon the offices of the clerk or community board.

6. The office shall require such notification to be on a standardized form that can be obtained on the internet or from the office and such notification to include:

(a) the trade name or "doing business as" name, if any, of the establishment;

(b) the full name of the applicant;

(c) the street address of the establishment, including the floor location or room number, if applicable;

(d) the mailing address of the establishment, if different than the street address;

(e) the name, address and telephone number of the attorney or representative of the applicant, if any;

(f) a statement indicating whether the application is for:

(i) a new establishment;

(ii) a transfer of an existing licensed business;

(iii) a renewal of an existing license; or

(iv) an alteration of an existing licensed premises;

(g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;

(h) in the case of a renewal or alteration application, the registration or license number of the applicant; and

(i) the type of license.

§ 74. On-site consumption license; provisions governing on-site consumption licenses. 1. No licensed adult-use cannabis retail dispensary shall be granted a cannabis on-site consumption license for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, in writing, for a term not less than the license period except, however, that such license may thereafter be renewed without the requirement of a lease as provided in this section. This subdivision shall not apply to premises leased from government agencies, as defined under subdivision twenty of section three of this chapter; provided, however, that the appropriate administrator of such government agency provides some form of written documentation regarding the terms of occupancy under which the applicant is leasing said premises from the government agency for presentation to the office at the time of the license application. Such documentation shall include the terms of occupancy between the applicant and the government agency, including, but not limited to, any short-term leasing agreements or written occupancy agreements.

2. No adult-use cannabis retail dispensary shall be granted a cannabis on-site consumption license for any premises where a license would not be allowed to sell at retail for consumption of alcohol on the premises based on its proximity to a building occupied exclusively as a school, church, synagogue or other place of worship pursuant to the provisions of section one hundred five of the alcoholic beverage control law.

3. The office may consider any or all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of a license for an on-site cannabis consumption at a particular location:

(a) that it is a privilege, and not a right, to cultivate, process, distribute, and sell cannabis;

(b) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;

(c) evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;

(d) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;

(e) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;

(f) the history of violations under the alcoholic beverage control law or this chapter at the location, as well as any pattern of violations under the alcoholic beverage control law or this chapter, and reported criminal activity at the proposed premises; and

(g) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community;

4. If the office shall disapprove an application for an on-site consumption license, it shall state and file in its offices the reasons therefor and shall notify the applicant thereof. Such applicant may thereupon apply to the office for a review of such action in a manner to be prescribed by the rules of the office.

5. No adult-use cannabis on-site consumption licensee shall keep upon the licensed premises any adult-use cannabis products except those purchased from a licensed distributor, microbusiness cultivator or registered organization authorized to sell adult-use cannabis, and only in containers approved by the office. Such containers shall have affixed thereto such labels as may be required by the rules of the office. No cannabis retail licensee for on-site consumption shall reuse, refill, tamper with, adulterate, dilute or fortify the contents of any container of cannabis products as received from the manufacturer or distributor.

6. No cannabis on-site consumption licensee shall sell, deliver or give away, or cause or permit or procure to be sold, delivered or given away any cannabis for consumption on the premises where sold in a container or package containing more than one gram of cannabis.

7. Except where a permit to do so is obtained pursuant to section 405.10 of the penal law, no cannabis on-site consumption licensee shall suffer, permit, or promote an event on its premises wherein any person shall use, explode, or cause to explode, any fireworks or other pyrotechnics in a building as defined in paragraph e of subdivision one of section 405.10 of the penal law, that is covered by such license or possess such fireworks or pyrotechnics for such purpose. In addition to any other penalty provided by law, a violation of this subdivision shall constitute an adequate ground for instituting a proceeding to suspend, cancel, or revoke the license of the violator in accordance with the applicable procedures specified in this chapter; provided however, if more than one licensee is participating in a single event, upon approval by the office, only one licensee must obtain such permit.

8. No premises licensed to sell adult-use cannabis for on-site consumption under this chapter shall be permitted to have any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless ingress and egress is restricted by an employee, agent of the licensee,

or other method approved by the office of controlling access to the facility.

9. Each cannabis on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of cannabis products, in an applicable metric measurement, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis products made by such licensee. The office is hereby authorized to promulgate rules and regulations permitting an on-site licensee operating two or more premises separately licensed to sell cannabis products for on-site consumption to inaugurate or retain in this state methods or practices of centralized accounting, bookkeeping, control records, reporting, billing, invoicing or payment respecting purchases, sales or deliveries of cannabis products, or methods and practices of centralized receipt or storage of cannabis products within this state without segregation or earmarking for any such separately licensed premises, wherever such methods and practices assure the availability, at such licensee's central or main office in this state, of data reasonably needed for the enforcement of this chapter. Such records shall be available for inspection by any authorized representative of the office.

10. All retail licensed premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the office, during the hours when the said premises are open for the transaction of business.

11. A cannabis on-site consumption licensee shall not provide cannabis products to any person under the age of twenty-one or to anyone visibly intoxicated.

§ 75. Record keeping and tracking. 1. The executive director shall, by regulation, require each licensee pursuant to this article to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, or distributing by the licensee, subject to regulations of the executive director.

2. Every licensee shall keep and maintain upon the licensed premises adequate books and records of all transactions involving the licensee and sale of its products, which shall include, but is not limited to, all information required by any rules promulgated by the office.

3. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number. Licensed producers shall deliver to the licensed distributor a true duplicate invoice stating the name and address of the purchaser, the quantity purchased, description and the price of the product, and a true, accurate and complete statement of the terms and conditions on which such sale is made.

4. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office.

5. Each adult-use cannabis retail dispensary and on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of cannabis, in weight, purchased by such licensee together with the names, license numbers and places of

business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis made by such licensee.

§ 76. Inspections and ongoing requirements. All licensed or permitted premises, regardless of the type of premises, shall be subject to inspection by the office, by the duly authorized representatives of the office, by any peace officer acting pursuant to his or her special duties, or by a police officer, during the hours when the said premises are open for the transaction of business. The office shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection. A person who holds a license or permit must make himself or herself, or an agent thereof, available and present for any inspection required by the office. Such inspection may include, but is not limited to, ensuring compliance by the licensee or permittee with all other applicable building codes, fire, health, safety, and governmental regulations, including at the municipal, county, and state level.

§ 77. Adult-use cultivators, processors or distributors not to be interested in retail dispensaries. 1. It shall be unlawful for a cultivator, processor, cooperative or distributor licensed under this article to:

(a) be interested directly or indirectly in any premises where any cannabis product is sold at retail; or in any business devoted wholly or partially to the sale of any cannabis product at retail by stock ownership, interlocking directors, mortgage or lien or any personal or real property, or by any other means.

(b) make, or cause to be made, any loan to any person engaged in the manufacture or sale of any cannabis product at wholesale or retail.

(c) make any gift or render any service of any kind whatsoever, directly or indirectly, to any person licensed under this chapter which in the judgment of the office may tend to influence such licensee to purchase the product of such cultivator or processor or distributor.

(d) enter into any contract with any retail licensee whereby such licensee agrees to confine his sales to cannabis products manufactured or sold by one or more such cultivator or processors or distributors. Any such contract shall be void and subject the licenses of all parties concerned to revocation for cause.

2. The provisions of this section shall not prohibit a registered organization authorized pursuant to section forty of this chapter, from cultivating, processing, distributing and selling adult-use cannabis under this article, at facilities wholly owned and operated by such registered organization, subject to any conditions, limitations or restrictions established by the office.

3. The office shall have the power to create rules and regulations in regard to this section.

§ 78. Packaging and labeling of adult-use cannabis products. 1. The office is hereby authorized to promulgate rules and regulations governing the packaging and labeling of cannabis products, sold or possessed for sale in New York state.

2. Such regulations shall include, but not be limited to, requiring that:

(a) packaging meets requirements similar to the federal "poison prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;

(b) all cannabis-infused products shall have a separate packaging for each serving;

(c) prior to delivery or sale at a retailer, cannabis and cannabis products shall be labeled and placed in a resealable, child-resistant package; and

(d) packages and labels shall not be made to be attractive to minors.

3. Such regulations shall include requiring labels warning consumers of any potential impact on human health resulting from the consumption of cannabis products that shall be affixed to those products when sold, if such labels are deemed warranted by the office.

4. Such rules and regulations shall establish methods and procedures for determining serving sizes for cannabis-infused products, active cannabis concentration per serving size, and number of servings per container. Such regulations shall also require a nutritional fact panel that incorporates data regarding serving sizes and potency thereof.

5. The packaging, sale, or possession by any licensee of any cannabis product not labeled or offered in conformity with rules and regulations promulgated in accordance with this section shall be grounds for the imposition of a fine, and/or the suspension, revocation or cancellation of a license.

§ 79. Laboratory testing. 1. Every processor of adult-use cannabis shall contract with an independent laboratory permitted pursuant to section one hundred twenty-nine of this chapter, to test the cannabis products it produces pursuant to rules and regulations prescribed by the office. The executive director may assign an approved testing laboratory, which the processor of adult-use cannabis must use.

2. Adult-use cannabis processors shall make laboratory test reports available to licensed distributors and retail dispensaries for all cannabis products manufactured by the processor.

3. Licensed retail dispensaries shall maintain accurate documentation of laboratory test reports for each cannabis product offered for sale to cannabis consumers. Such documentation shall be made publicly available by the licensed retail dispensary.

4. Onsite laboratory testing by licensees is permissible; however, such testing shall not be certified by the office and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

5. An owner of a cannabis laboratory testing permit shall not hold a license in any other category within this article and shall not own or have ownership interest in a registered organization registered pursuant to article three of this chapter.

6. The office shall have the authority to require any licensee under this article to submit cannabis or cannabis products to one or more independent laboratories for testing.

§ 80. Provisions governing the cultivation and processing of adult-use cannabis. 1. Cultivation of cannabis must not be visible from a public place by normal unaided vision.

2. No cultivator or processor of adult-use cannabis shall sell, or agree to sell or deliver in the state any cannabis products, as the case may be, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the office. Such containers shall have affixed thereto such labels as may be required by the rules of the office.

3. No cultivator or processor of adult-use cannabis shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the office. The office may make such rules as it deems necessary to carry out the purpose and intent of this subdivision.

4. Cultivators of adult-use cannabis shall only use pesticides that are registered by the department of environmental conservation or that specifically meet the United States environmental protection agency registration exemption criteria for minimum risk pesticides, and only in compliance with regulations, standards and guidelines issued by the department of environmental conservation.

5. No cultivator or processor of adult-use cannabis shall transport cannabis products in any vehicle owned and operated or hired and operated by such cultivator or processor, unless there shall be attached to or inscribed upon both sides of such vehicle a sign, showing the name and address of the licensee, together with the following inscription: "New York State Cannabis Cultivator (or Processor) License No. _____" in uniform letters not less than three and one-half inches in height. In lieu of such sign a cultivator or processor may have in the cab of such vehicle a photostatic copy of its current license issued by the office, and such copy duly authenticated by the office.

6. No cultivator or processor of adult-use cannabis shall deliver any cannabis products, except in vehicles owned and operated by such cultivator, processor, or hired and operated by such cultivator or processor from a trucking or transportation company registered with the office, and shall only make deliveries at the licensed premises of the purchaser.

7. No cultivator or processor of adult-use cannabis, including an adult-use cannabis cooperative or microbusiness cultivator, may offer any incentive, payment or other benefit to a licensed cannabis retail dispensary in return for carrying the cultivator, processor, cooperative or microbusiness cultivator's products, or preferential shelf placement.

8. All cannabis products shall be processed in accordance with good manufacturing processes, pursuant to Part 111 of Title 21 of the Code of Federal Regulations, as may be modified by the executive director in regulation.

9. No processor of adult-use cannabis shall produce any product which, in the discretion of the office, is designed to appeal to anyone under the age of twenty-one years.

10. The use or integration of alcohol or nicotine in cannabis products is strictly prohibited.

§ 81. Provisions governing the distribution of adult-use cannabis. 1. No distributor shall sell, or agree to sell or deliver any cannabis products, as the case may be, in any container, except in a sealed package. Such containers shall have affixed thereto such labels as may be required by the rules of the office.

2. No distributor shall deliver any cannabis products, except in vehicles owned and operated by such distributor, or hired and operated by such distributor from a trucking or transportation company registered with the office, and shall only make deliveries at the licensed premises of the purchaser.

3. Each distributor shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such distributor, which shall show the amount of cannabis products purchased by such distributor together with the names, license numbers and places of business of the persons from whom the same was purchased and the amount involved in such purchases, as well as the amount of cannabis products sold by such distributor together with the names, addresses, and license numbers of such purchasers. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the

licensed premises, and the current license number. Such distributor shall deliver to the purchaser a true duplicate invoice stating the name and address of the purchaser, the quantity of cannabis products, description by brands and the price of such cannabis products, and a true, accurate and complete statement of the terms and conditions on which such sale is made. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office.

4. No distributor shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, unless authorized by the office.

5. No distributor shall provide any discount, rebate or customer loyalty program to any licensed retailer, except as otherwise allowed by the office.

6. The executive director is authorized to promulgate regulations establishing a maximum margin for which a distributor may mark up a cannabis product for sale to a retail dispensary. Any adult-use cannabis product sold by a distributor for more than the maximum markup allowed in regulation, shall be unlawful.

7. Each distributor shall keep and maintain upon the licensed premises, adequate books and records to demonstrate the distributor's actual cost of doing business, using accounting standards and methods regularly employed in the determination of costs for the purpose of federal income tax reporting, for the total operation of the licensee. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office for use in determining the maximum markup allowed in regulation pursuant to subdivision six of this section.

§ 82. Provisions governing adult-use cannabis retail dispensaries. 1. No cannabis retail licensee shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis to any person, actually or apparently, under the age of twenty-one years, any visibly intoxicated person, or any habitually intoxicated person known to be such by the person authorized to sell, deliver, or give away any cannabis.

2. No cannabis retail licensee shall sell more than one ounce of cannabis per cannabis consumer per day; nor more than five grams of cannabis concentrate per cannabis consumer per day.

3. No cannabis retail licensee shall sell alcoholic beverages, nor have or possess a license or permit to sell alcoholic beverages, on the same premises where cannabis products are sold.

4. No sign of any kind printed, painted or electric, advertising any brand shall be permitted on the exterior or interior of such premises, except by permission of the office.

5. No cannabis retail licensee shall sell or deliver any cannabis products to any person with knowledge of, or with reasonable cause to believe, that the person to whom such cannabis products are being sold, has acquired the same for the purpose of peddling them from place to place, or of selling or giving them away in violation of the provisions of this chapter or in violation of the rules and regulations of the office.

6. All premises licensed under this section shall be subject to inspection by any peace officer described in subdivision four of section 2.10 of the criminal procedure law acting pursuant to his or her special duties, or police officer or any duly authorized representative of the

office, during the hours when the said premises are open for the transaction of business.

7. No cannabis retail licensee shall be interested, directly or indirectly, in any cultivator, processor or distributor licensed pursuant to this article, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means. Any lien, mortgage or other interest or estate, however, now held by such retailer on or in the personal or real property of such manufacturer or distributor, which mortgage, lien, interest or estate was acquired on or before December thirty-first, two thousand eighteen, shall not be included within the provisions of this subdivision; provided, however, the burden of establishing the time of the accrual of the interest comprehended by this subdivision, shall be upon the person who claims to be entitled to the protection and exemption afforded hereby.

8. No cannabis retail licensee shall make or cause to be made any loan to any person engaged in the cultivation, processing or distribution of cannabis pursuant to this article.

9. Each cannabis retail licensee shall designate the price of each item of cannabis by attaching to or otherwise displaying immediately adjacent to each such item displayed in the interior of the licensed premises where sales are made a price tag, sign or placard setting forth the price at which each such item is offered for sale therein.

10. No person licensed to sell cannabis products at retail, shall allow or permit any gambling, or offer any gambling on the licensed premises, or allow or permit illicit drug activity on the licensed premises. The use of the licensed premises or any part thereof for the sale of lottery tickets, when duly authorized and lawfully conducted thereon, shall not constitute gambling within the meaning of this subdivision.

11. If an employee of a cannabis retail licensee suspects that a cannabis consumer may be abusing cannabis, such an employee shall encourage such cannabis consumer to seek the help of a registered practitioner and become a certified patient. Cannabis retail licensees shall develop standard operating procedures and written materials for employees to utilize when consulting consumers for purposes of this subdivision.

12. The executive director is authorized to promulgate regulations governing licensed adult-use dispensing facilities, including but not limited to, the hours of operation, size and location of the licensed facility, potency and types of products offered and establishing a minimum margin for which a retail dispensary must markup a cannabis product(s) before selling to a cannabis consumer. Any adult-use cannabis product sold by a retail dispensary for less than the minimum markup allowed in regulation, shall be unlawful.

§ 83. Adult-use cannabis advertising. 1. The office is hereby authorized to promulgate rules and regulations governing the advertising of licensed adult-use cannabis cultivators, processors, cooperatives, distributors, retailers, and any cannabis products or services.

2. The office shall promulgate explicit rules prohibiting advertising that:

(a) is false, deceptive, or misleading;

(b) promotes overconsumption;

(c) depicts consumption by children or other minors;

(d) is designed in any way to appeal to children or other minors;

(e) is within two hundred feet of the perimeter of a school grounds, playground, child care center, public park, or library;

(f) is in public transit vehicles and stations;

(g) is in the form of an unsolicited internet pop-up;
(h) is on publicly owned or operated property; or
(i) makes medical claims or promotes adult-use cannabis for a medical or wellness purpose.
3. The office shall promulgate explicit rules prohibiting all marketing strategies and implementation including, but not limited to, branding, packaging, labeling, location of cannabis retailers, and advertisements that are designed to:
(a) appeal to persons less then twenty-one years of age; or
(b) disseminate false or misleading information to customers.
4. The office shall promulgate explicit rules requiring that:
(a) all advertisements and marketing accurately and legibly identify the licensee responsible for its content; and
(b) any broadcast, cable, radio, print and digital communications advertisements only be placed where the audience is reasonably expected to be twenty-one years of age or older, as determined by reliable, up-to-date audience composition data.
§ 84. Minority, women-owned businesses and disadvantaged farmers; incubator program. 1. The office shall implement a social and economic equity plan and actively promote racial, ethnic, and gender diversity when issuing licenses for adult-use cannabis related activities, including by prioritizing consideration of applications by applicants who qualify as a minority and women-owned business or disadvantaged farmers. Such qualifications shall be determined by the office in regulation.
2. The office shall create a social and economic equity plan to promote diversity in ownership and employment in the adult-use cannabis industry and ensure inclusion of:
(a) minority-owned businesses;
(b) women-owned businesses;
(c) minority and women-owned businesses, as defined in subdivision five of this section; and
(d) disadvantaged farmers, as defined in subdivision five of this section.
3. The social and economic equity plan shall consider additional criteria in its licensing determinations. Under the social and economic equity plan, extra weight shall be given to applications that demonstrate that an applicant:
(a) is a member of a community group that has been disproportionately impacted by the enforcement of cannabis prohibition;
(b) has an income lower than eighty percent of the median income of the county in which the applicant resides; and
(c) was convicted of a cannabis-related offense prior to the effective date of this chapter.
4. The office shall also create an incubator program to provide direct support to social and economic equity applicants after they have been granted licenses. The program shall provide direct support in the form of counseling services, education, small business coaching, and compliance assistance.
5. For the purposes of this section, the following definitions shall apply:
(a) "minority-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:
(i) at least fifty-one percent owned by one or more minority group members;

(ii) an enterprise in which such minority ownership is real, substantial and continuing;

(iii) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

(b) "minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(i) black persons having origins in any of the black African racial groups;

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(iii) Native American or Alaskan native persons having origins in any of the original peoples of North America; or

(iv) Asian and Pacific Islander persons having origins in any of the far east countries, south east Asia, the Indian subcontinent or the Pacific islands.

(c) "women-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(i) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;

(ii) an enterprise in which the ownership interest of such women is real, substantial and continuing;

(iii) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

(d) a firm owned by a minority group member who is also a woman may be defined as a minority-owned business, a women-owned business, or both.

(e) "disadvantaged farmer" shall mean a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that has reported at least two-thirds of its federal gross income as income from farming, in at least one of the past five preceding tax years, and who:

(i) farms in a county that has greater than ten percent rate of poverty according to the latest U.S. Census Bureau's American Communities Survey;

(ii) has been disproportionately impacted by low commodity prices or faces the loss of farmland through development or suburban sprawl; and

(iii) meets any other qualifications as defined in regulation by the office.

6. The office shall actively promote applicants that foster racial, ethnic, and gender diversity in their workforce.

7. Licenses issued to minority and women-owned businesses or under the social and economic equity plan shall not be transferable except to qualified minority and women-owned businesses or social and economic equity applicants and only upon prior written approval of the executive director.

8. The office shall collect demographic data on owners and employees in the adult-use cannabis industry and shall annually publish such data.

§ 85. Regulations. The executive director shall make regulations to implement this article.

ARTICLE 5
HEMP CANNABIS

Section 90. Cannabinoid related hemp cannabis licensing.
91. Cannabinoid grower licenses.
92. Cannabinoid extractor license.
93. Cannabinoid license applications.
94. Information to be requested in applications for licenses.
95. Fees.
96. Selection criteria.
97. Limitations of licensure; duration.
98. License renewal.
99. Form of license.
100. Amendments to license and duty to update information submitted for licensing.
101. Record keeping and tracking.
102. Inspections and ongoing requirements.
103. Packaging and labeling of hemp cannabis.
104. Provisions governing the growing and extracting of hemp cannabis.
105. Laboratory testing.
106. Advertising.
107. Research.
108. Regulations.

§ 90. Cannabinoid related hemp cannabis licensing. 1. Persons growing, processing, extracting, and/or manufacturing hemp cannabis or producing hemp cannabis products distributed, sold or marketed for cannabinoid content and used or intended for human or animal consumption or use, shall be required to obtain the following license or licenses from the office, depending upon the operation:

(a) cannabinoid grower license and/or;

(b) cannabinoid extractor license.

2. Notwithstanding subsection one of this section, those persons growing, processing or manufacturing food or food ingredients from hemp, which food or food ingredients are generally recognized as safe, shall be subject to regulation and/or licensing under the agriculture and markets law.

§ 91. Cannabinoid grower licenses. 1. A cannabinoid grower's license authorizes the acquisition, possession, cultivation and sale of hemp cannabis grown or used for its cannabinoid content on the licensed premises of the grower.

2. A person holding a cannabinoid grower's license shall not sell hemp products marketed, distributed or sold for its cannabinoid content and intended for human consumption or use without also being licensed as an extractor pursuant to this article.

3. Persons growing industrial hemp pursuant to article twenty-nine of the agriculture and markets law are not authorized to and shall not sell hemp cannabis for human or animal consumption or use, other than as food or a food ingredient that has been generally recognized as safe in accordance with the U.S. food and drug administration or determined by the state to be safe for human consumption as food or a food ingredient.

4. A person licensed under article twenty-nine of the agriculture and markets law as an industrial hemp grower may apply for a cannabinoid grower's license provided that it can demonstrate to the office that its cultivation of industrial hemp meets all the requirements for hemp cannabis cultivated under a cannabinoid grower's license.

§ 92. Cannabinoid extractor license. 1. A cannabinoid extractor license authorizes the licensee's acquisition, possession, extraction and manufacture of hemp from a licensed cannabinoid grower for the processing of hemp cannabis or the production of hemp cannabis products marketed, distributed or sold for cannabinoid content and used or intended for human or animal consumption or use.

2. No cannabinoid extractor licensee shall engage in any other business on the licensed premises; except that nothing contained in this chapter shall prevent a cannabinoid extractor licensee from also being licensed as a cannabinoid grower on the same premises.

3. Notwithstanding subdivisions one and two of this section, nothing shall prevent a cannabinoid extractor from manufacturing hemp products not used or intended for human or animal consumption or use.

§ 93. Cannabinoid license applications. 1. Persons shall apply for a cannabinoid grower license and/or a cannabinoid extractor license by submitting an application upon a form supplied by the office, providing all the requested information, verified by the applicant or an authorized representative of the applicant.

2. A separate license shall be required for each facility at which growing or extracting is conducted.

3. Each application shall remit with its application the fee for each requested license.

§ 94. Information to be requested in applications for licenses. 1. The office shall have the authority to prescribe the manner and form in which an application must be submitted to the office for licensure under this article.

2. The executive director is authorized to adopt regulations, including by emergency rule, establishing information which must be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity, including racial and ethnic diversity; ownership and investment information, including the corporate structure; evidence of good moral character, including the submission of fingerprints by the applicant to the division of criminal justice services; information about the premises to be licensed; financial statements; and any other information prescribed by in regulation.

3. All license applications shall be signed by the applicant (if an individual), by a managing partner (if a limited liability corporation), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such application shall verify it or affirm it as true under the penalties of perjury.

4. All license or permit applications shall be accompanied by a check, draft or other forms of payment as the office may require or authorize in the amount required by this article for such license or permit.

5. If there be any change, after the filing of the application or the granting of a license, in any of the facts required to be set forth in such application, a supplemental statement giving notice of such change, cost and source of money involved in the change, duly verified, shall be filed with the office within ten days after such change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

6. In giving any notice, or taking any action in reference to a licensee of a licensed premises, the office may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon a registered organization, licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke, cancel or suspend any license, and in the office's determination to approve or deny the license.

7. The office may, in its discretion, waive the submission of any category of information described in this section for any category of license or permit, provided that it shall not be permitted to waive the requirement for submission of any such category of information solely for an individual applicant or applicants.

§ 95. Fees. The office shall have the authority to charge licensees a biennial license fee. Such fee may be based on the amount of hemp cannabis to be grown, processed or extracted by the licensee, the gross annual receipts of the licensee for the previous license period, or any other factors deemed appropriate by the office.

§ 96. Selection criteria. 1. An applicant shall furnish evidence:

(a) its ability to effectively maintain a delta-9-tetrahydrocannabinol concentration that does not exceed a percentage of delta-9-tetrahydrocannabinol cannabis set by the executive director on a dry weight basis of any part of the plant of the genus cannabis, or per volume or weight of cannabis product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content, for all hemp cannabis and hemp derived products cultivated, processed or extracted by the applicant;

(b) its ability to comply with all applicable state laws and regulations, including, without limitation, the provisions of article fourteen of the agriculture and markets law;

(c) that the applicant is ready, willing and able to properly carry on the activities for which a license is sought; and

(d) that the applicant is in possession of or has the right to use land, buildings and equipment sufficient to properly carry on the activity described in the application.

2. The office, in considering whether to grant the license application, shall consider whether:

(a) it is in the public interest that such license be granted, taking into consideration whether the number of licenses will be adequate or excessive to reasonably serve demand;

(b) the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter; and

(c) the applicant satisfies any other conditions as determined by the office.

3. If the executive director is not satisfied that the applicant should be issued a license, the executive director shall notify the applicant in writing of the specific reason or reasons for denial.

4. The executive director shall have authority and sole discretion to determine the number of licenses issued pursuant to this article.

§ 97. Limitations of licensure; duration. 1. No license pursuant to this article may be issued to a person under the age of twenty-one years.

2. The office shall have the authority to limit, by canopy, plant count or other means, the amount of hemp cannabis allowed to be cultivated, processed, extracted or sold by a licensee.

3. All licenses under this article shall expire two years after the date of issue and be subject to any rules or limitations prescribed by the executive director in regulation.

§ 98. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefor by the licensee and the payment of the fee for such license as prescribed by this article.

2. In the case of applications for renewals, the office may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license, but in any event the submission of photographs of the licensed premises shall be dispensed with, provided the applicant for such renewal shall file a statement with the office to the effect that there has been no alteration of such premises since the original license was issued.

3. The office may make such rules as may be necessary, not inconsistent with this chapter, regarding applications for renewals of licenses and permits and the time for making the same.

4. The office shall provide an application for renewal of a license issued under this article not less than ninety days prior to the expiration of the current license.

5. The office may only issue a renewal license upon receipt of the prescribed renewal application and renewal fee from a licensee if, in addition to the criteria in section ninety-four of this article, the license's license is not under suspension and has not been revoked.

6. The office shall have the authority to charge applicants for licensure under this article a non-refundable application fee. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the office to achieve the policy and purpose of this chapter.

§ 99. Form of license. Licenses issued pursuant to this article shall specify:

1. the name and address of the licensee;

2. the activities permitted by the license;

3. the land, buildings and facilities that may be used for the licensed activities of the licensee;

4. a unique license number issued by the office to the licensee; and

5. such other information as the executive director shall deem necessary to assure compliance with this chapter.

§ 100. Amendments to license and duty to update information submitted for licensing. 1. Upon application of a licensee to the office, a license may be amended to allow the licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the licensee. The fee for such amendment shall be two hundred fifty dollars.

2. In the event that any of the information provided by the applicant changes either while the application is pending or after the license is granted, within ten days of any such change, the applicant or licensee shall submit to the office a verified statement setting forth the change in circumstances of facts set forth in the application. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

3. A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the executive director. The executive director may promulgate regulations

allowing for certain types of changes in ownership without the need for prior written approval.

4. For purposes of this section, "substantial corporate change" shall mean:

(a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; and

(b) for a limited liability company, a change of eighty percent or more of the managing members of the company, or a transfer of eighty percent or more of ownership interest in said company, or an existing member obtaining a cumulative of eighty percent or more of the ownership interest in said company.

§ 101. Record keeping and tracking. 1. The executive director shall, by regulation, require each licensee pursuant to this article to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all hemp cannabis at every stage of acquiring, possession, manufacture, transport, sale, or delivery, or distribution by the licensee, subject to regulations of the executive director.

2. Every licensee shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the licensee and sale of its products, which shall include all information required by rules promulgated by the office.

3. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number.

4. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office.

§ 102. Inspections and ongoing requirements. All licensees shall be subject to reasonable inspection by the office, and a person who holds a license must make himself or herself, or an agent thereof, available and present for any inspection required by the office. The office shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.

§ 103. Packaging and labeling of hemp cannabis. 1. The office is hereby authorized to promulgate rules and regulations governing the packaging and labeling of hemp cannabis products, sold or possessed for sale in New York state.

2. Such regulations shall include, but not be limited to, requiring labels warning consumers of any potential impact on human health resulting from the consumption of hemp cannabis products that shall be affixed to those products when sold, if such labels are deemed warranted by the office.

3. Such rules and regulations shall establish methods and procedures for determining, among other things, serving sizes for hemp cannabis products, active cannabinoid concentration per serving size, and number of servings per container. Such regulations shall also require a nutritional fact panel that incorporates data regarding serving sizes and potency thereof.

4. The packaging, sale, or possession by any licensee of any hemp product intended for human or animal consumption or use not labeled or offered in conformity with rules and regulations promulgated in accord-

ance with this section shall be grounds for the imposition of a fine, and/or the suspension, revocation or cancellation of a license.

§ 104. Provisions governing the growing and extracting of hemp cannabis. 1. No licensed cannabinoid grower or extractor shall sell, or agree to sell or deliver in the state any hemp cannabis products, as the case may be, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the office. Such containers shall have affixed thereto such labels as may be required by the rules of the office.

2. Licensed cannabinoid growers shall only use pesticides that are registered by the New York state department of environmental conservation or that specifically meet the United States Environmental Protection Agency registration exemption criteria for minimum risk pesticides, and only in compliance with regulations, standards and guidelines issued by the department of environmental conservation.

3. All hemp cannabis products shall be extracted and manufactured in accordance with good manufacturing processes, pursuant to Part 111 of Title 21 of the Code of Federal Regulations as may be modified by the executive director in regulation.

4. The use or integration of alcohol or nicotine in hemp cannabis products is strictly prohibited.

§ 105. Laboratory testing. 1. Every cannabinoid extractor shall contract with an independent laboratory to test the cannabis products produced by the licensed extractor. The executive director, in consultation with the commissioner of health, shall approve the laboratory and require that the laboratory report testing results in a manner determined by the executive director. The executive director is authorized to issue regulations requiring the laboratory to perform certain tests and services.

2. Cannabinoid extractors shall make laboratory test reports available to persons holding a cannabinoid permit pursuant to article six of this chapter for all cannabis products manufactured by the licensee.

3. On-site laboratory testing by licensees is permissible; however, such testing shall not be certified by the office and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

§ 106. Advertising. The office shall promulgate rules and regulations governing the advertising of hemp cannabis and any other related products or services as determined by the executive director.

§ 107. Research. 1. The office shall promote research and development through public-private partnerships to bring new hemp cannabis and industrial hemp derived products to market within the state.

2. The executive director may develop and carry out research programs relating to industrial hemp and hemp cannabis.

§ 108. Regulations. The executive director shall make regulations to implement this article.

ARTICLE 6
GENERAL PROVISIONS

Section 125. General prohibitions and restrictions.
126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis.
127. Protections for the use of cannabis; unlawful discriminations prohibited.
128. Registrations and licenses.

129. Laboratory testing permit.
130. Special use permits.
131. Professional and medical record keeping.
132. County opt-out; municipal control and preemption.
133. Executive director to be necessary party to certain proceedings.
134. Penalties for violation of this chapter.
135. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation.
136. Lawful actions pursuant to this chapter.
137. Review by courts.
138. Illicit cannabis.
139. Injunction for unlawful manufacture, sale or consumption of cannabis.
140. Persons forbidden to traffic cannabis products; certain officials not to be interested in manufacture or sale of cannabis products.
141. Access to criminal history information through the division of criminal justice services.

§ 125. General prohibitions and restrictions. 1. No person shall cultivate, process, or distribute for sale or sell at wholesale or retail any cannabis, cannabis product, medical cannabis or hemp cannabis product within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter.

2. No registered organization, licensee, or permittee shall sell, or agree to sell or deliver in this state any cannabis or hemp cannabis for the purposes of resale to any person who is not duly registered, licensed or permitted pursuant to this chapter to sell such product, at wholesale or retail, as the case may be, at the time of such agreement and sale.

3. No registered organization, licensee, or permittee shall employ, or permit to be employed, or shall allow to work, on any premises registered or licensed for retail sale hereunder, any person under the age of eighteen years in any capacity where the duties of such person require or permit such person to sell, dispense or handle cannabis or hemp cannabis.

4. No registered organization, licensee, or permittee shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any cannabis, cannabis product, medical cannabis or hemp cannabis on credit; except that a registered organization, licensee or permittee may accept third party credit cards for the sale of any cannabis, cannabis product, medical cannabis or hemp cannabis for which it is registered, licensed or permitted to dispense or sell to patients or cannabis consumers. This includes, but is not limited to, any consignment sale of any kind.

5. No registered organization, licensee, or permittee shall cease to be operated as a bona fide or legitimate premises within the contemplation of the registration, license, or permit issued for such premises, as determined within the judgment of the office.

6. No registered organization, licensee, or permittee shall refuse, nor any person holding a registration, license, or permit refuse, nor any officer or director of any corporation or organization holding a registration, license, or permit refuse, to appear and/or testify under oath at an inquiry or hearing held by the office, with respect to any matter bearing upon the registration, license, or permit, the conduct of any people at the licensed premises, or bearing upon the character or

fitness of such registrant, licensee, or permittee to continue to hold any registration, license, or permit. Nor shall any of the above offer false testimony under oath at such inquiry or hearing.

7. No registered organization, licensee, or permittee shall engage, participate in, or aid or abet any violation or provision of this chapter, or the rules or regulations of the office.

8. The proper conduct of registered, licensed, or permitted premises is essential to the public interest. Failure of a registered organization, licensee, or permittee to exercise adequate supervision over the registered, licensed, or permitted location poses a substantial risk not only to the objectives of this chapter but imperils the health, safety, and welfare of the people of this state. It shall be the obligation of each person registered, licensed, or permitted under this chapter to ensure that a high degree of supervision is exercised over any and all conduct at any registered, licensed, or permitted location at any and all times in order to safeguard against abuses of the privilege of being registered, licensed, or permitted, as well as other violations of law, statute, rule, or regulation. Persons registered, licensed, or permitted shall be held strictly accountable for any and all violations that occur upon any registered, licensed, or permitted premises, and for any and all violations committed by or permitted by any manager, agent or employee of such registered, licensed, or permitted person.

9. It shall be unlawful for any person, partnership or corporation operating a place for profit or pecuniary gain, with a capacity for the assemblage of twenty or more persons to permit a person or persons to come to the place of assembly for the purpose of cultivating, processing, distributing, or retail distribution or sale of cannabis on said premises. This includes, but is not limited, to, cannabis that is either provided by the operator of the place of assembly, his agents, servants or employees, or cannabis that is brought onto said premises by the person or persons assembling at such place, unless an appropriate registration, license, or permit has first been obtained from the office of cannabis management by the operator of said place of assembly.

10. As it is a privilege under the law to be registered, licensed, or permitted to cultivate, process, distribute, traffic, or sell cannabis, the office may impose any such further restrictions upon any registrant, licensee, or permittee in particular instances as it deems necessary to further state policy and best serve the public interest. A violation or failure of any person registered, licensed, or permitted to comply with any condition, stipulation, or agreement, upon which any registration, license, or permit was issued or renewed by the office shall subject the registrant, licensee, or permittee to suspension, cancellation, revocation, and/or civil penalties as determined by the office.

11. No adult-use cannabis or medical cannabis may be imported to, or exported out of, New York state by a registered organization, licensee or person holding a license and/or permit pursuant to this chapter, until such time as it may become legal to do so under federal law. Should it become legal to do so under federal law, the office is granted the power to promulgate such rules and regulations as it deems necessary to protect the public and the policy of the state.

12. No registered organization, licensee or any of its agents, servants or employees shall peddle any cannabis product, medical cannabis or hemp cannabis from house to house by means of a truck or otherwise, where the sale is consummated and delivery made concurrently at the residence or place of business of a cannabis consumer. This subdivision shall not prohibit the delivery by a registered organization to certi-

fied patients or their designated caregivers, pursuant to article three of this chapter.

13. No licensee shall employ any canvasser or solicitor for the purpose of receiving an order from a certified patient, designated caregiver or cannabis consumer for any cannabis product, medical cannabis or hemp cannabis at the residence or place of business of such patient, caregiver or consumer, nor shall any licensee receive or accept any order, for the sale of any cannabis product, medical cannabis or hemp cannabis which shall be solicited at the residence or place of business of a patient, caregiver or consumer. This subdivision shall not prohibit the solicitation by a distributor of an order from any licensee at the licensed premises of such licensee.

14. No premises registered, licensed, or permitted by the office shall:

(a) permit or allow any gambling on the premises;

(b) permit or allow the premises to become disorderly;

(c) permit or allow the use, by any person, of any fireworks or other pyrotechnics on the premises; or

(d) permit or allow to appear as an entertainer, on any part of the premises registered, licensed, or permitted, any person under the age of eighteen years.

§ 126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis. 1. A registration, license, or permit issued to any person, pursuant to this chapter, for any registered, licensed, or permitted premises shall not be transferable to any other person, to any other location or premises, or to any other building or part of the building containing the licensed premises except in the discretion of the office. All privileges granted by any registration, license, or permit shall be available only to the person therein specified, and only for the premises licensed and no other except if authorized by the office. Provided, however, that the provisions of this section shall not be deemed to prohibit the amendment of a registration or license as provided for in this chapter. A violation of this section shall subject the registration, license, or permit to revocation for cause.

2. Where a registration or license for premises has been revoked, the office in its discretion may refuse to issue a registration, license, or permit under this chapter, for a period of up to five years after such revocation, for such premises or for any part of the building containing such premises and connected therewith.

3. In determining whether to issue such a proscription against granting any registration, license, or permit for such five-year period, in addition to any other factors deemed relevant to the office, the office shall, in the case of a license revoked due to the illegal sale of cannabis to a minor, determine whether the proposed subsequent licensee has obtained such premises through an arm's length transaction, and, if such transaction is not found to be an arm's length transaction, the office shall deny the issuance of such license.

4. For purposes of this section, "arm's length transaction" shall mean a sale of a fee of all undivided interests in real property, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, or any part thereof, in the open market, between an informed and willing buyer and seller where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale was made for the purpose of permitting the original licensee to avoid

the effect of the revocation. The following sales shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of the revocation:

(a) a sale between relatives;

(b) a sale between related companies or partners in a business; or

(c) a sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, affected by other facts or circumstances that would indicate that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, is entered into for the primary purpose of permitting the original licensee to avoid the effect of the revocation.

5. No registered organization, licensee or permittee shall transport cannabis products or medical cannabis except in vehicles owned and operated by such registered organization, licensee or permittee, or hired and operated by such registered organization, licensee or permittee from a trucking or transportation company permitted and registered with the office.

6. No common carrier or person operating a transportation facility in this state, other than the United States government, shall receive for transportation or delivery within the state any cannabis products or medical cannabis unless the shipment is accompanied by copy of a bill of lading, or other document, showing the name and address of the consignor, the name and address of the consignee, the date of the shipment, and the quantity and kind of cannabis products or medical cannabis contained therein.

§ 127. Protections for the use of cannabis; unlawful discriminations prohibited. 1. No person, registered organization, licensee or permittee shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business or occupational or professional licensing board or office, solely for conduct permitted under this chapter. For the avoidance of doubt, the appellate division of the supreme court of the state of New York, and any disciplinary or character and fitness committees established by them are occupational and professional licensing boards within the meaning of this section. State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the federal controlled substances act, 21 U.S.C. et seq., solely for actions consistent with this chapter, except as pursuant to a valid court order.

2. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for conduct allowed under this chapter, except as exempted:

(a) if failing to do so would cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations;

(b) if the institution has adopted a code of conduct prohibiting cannabis use on the basis of religious belief; or

(c) if a property is registered with the New York smoke-free housing registry, it is not required to permit the smoking of cannabis products on its premises.

3. For the purposes of medical care, including organ transplants, a certified patient's authorized use of medical cannabis must be considered the equivalent of the use of any other medication under the direc-

tion of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

4. Unless an employer establishes that the lawful use of cannabis has impaired the employee's ability to perform the employee's job responsibilities, it shall be unlawful to take any adverse employment action against an employee based on conduct allowed under this chapter.

5. For the purposes of this section, an employer may consider an employee's ability to perform the employee's job responsibilities to be impaired when the employee manifests specific articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position.

6. Nothing in this section shall restrict an employer's ability to prohibit or take adverse employment action for the possession or use of intoxicating substances during work hours, or require an employer to commit any act that would cause the employer to be in violation of federal law, or that would result in the loss of a federal contract or federal funding.

7. As used in this section, "adverse employment action" means refusing to hire or employ, barring or discharging from employment, requiring a person to retire from employment, or discriminating against in compensation or in terms, conditions, or privileges of employment.

8. A person currently under parole, probation or other state supervision, or released on bail awaiting trial may not be punished or otherwise penalized for conduct allowed under this chapter.

§ 128. Registrations and licenses. 1. No registration or license shall be transferable or assignable except that notwithstanding any other provision of law, the registration or license of a sole proprietor converting to corporate form, where such proprietor becomes the sole stockholder and only officer and director of such new corporation, may be transferred to the subject corporation if all requirements of this chapter remain the same with respect to such registration or license as transferred and, further, the registered organization or licensee shall transmit to the office, within ten days of the transfer of license allowable under this subdivision, on a form prescribed by the office, notification of the transfer of such license.

2. No registration or license shall be pledged or deposited as collateral security for any loan or upon any other condition; and any such pledge or deposit, and any contract providing therefor, shall be void.

3. Licenses issued under this chapter shall contain, in addition to any further information or material to be prescribed by the rules of the office, the following information:

(a) name of the person to whom the license is issued;

(b) kind of license and what kind of traffic in cannabis is thereby permitted;

(c) description by street and number, or otherwise, of licensed premises; and

(d) a statement in substance that such license shall not be deemed a property or vested right, and that it may be revoked at any time pursuant to law.

§ 129. Laboratory testing permit. 1. The executive director shall approve and permit one or more independent cannabis testing laboratories to test medical cannabis, adult-use cannabis and/or hemp cannabis.

2. To be permitted as an independent cannabis laboratory, a laboratory must apply to the office, on a form and in a manner prescribed by the

office, and must demonstrate the following to the satisfaction of the executive director:

(a) the owners and directors of the laboratory are of good moral character;

(b) the laboratory and its staff has the skills, resources and expertise needed to accurately and consistently perform all of the testing required for adult-use cannabis, medical cannabis and/or hemp cannabis;

(c) the laboratory has in place and will maintain adequate policies, procedures, and facility security to ensure proper: collection, labeling, accessioning, preparation, analysis, result reporting, disposal and storage of adult-use cannabis, medical cannabis and/or hemp cannabis;

(d) the laboratory is physically located in New York state;

(e) the laboratory has been approved by the department of health pursuant to Part 55-2 of Title 10 of the New York Codes, Rules and Regulations, pertaining to laboratories performing environmental analysis; and

(f) the laboratory meets any and all requirements prescribed by this chapter and by the executive director in regulation.

3. The owner of a laboratory testing permit under this section shall not hold a registration or license in any category of this chapter and shall not have any direct or indirect ownership interest in such registered organization or licensee. No board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization or licensee under this chapter, or such person's immediate family member, shall have an interest or voting rights in any laboratory testing permittee.

4. The executive director shall require that the permitted laboratory report testing results to the office in a manner, form and timeframe as determined by the executive director.

5. The executive director is authorized to promulgate regulations, requiring permitted laboratories to perform certain tests and services.

§ 130. Special Use Permits. The office is hereby authorized to issue the following kinds of permits for carrying on activities consistent with the policy and purpose of this chapter with respect to cannabis. The executive director has the authority to set fees for all permits issued pursuant to this section, to establish the periods during which permits are authorized, and to make rules and regulations, including emergency regulations, to implement this section.

1. Industrial cannabis permit - to purchase cannabis for use in the manufacture and sale of any of the following, when such cannabis is not otherwise suitable for consumption purposes, namely: (a) apparel, energy, paper, and tools; (b) scientific, chemical, mechanical and industrial products; or (c) any other industrial use as determined by the executive director in regulation.

2. Nursery permit - to produce clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis, and to sell such to licensed adult-use cultivators, registered organizations, and certified patients or their designated caregivers.

3. Solicitor's permit - to offer for sale or to solicit orders for the sale of any cannabis products, medical cannabis and/or hemp cannabis, as a representative of a registered organization or licensee under this chapter.

4. Broker's permit - to act as a broker in the purchase and sale of cannabis products, medical cannabis and/or hemp cannabis for a fee or commission, for or on behalf of a person authorized to cultivate, proc-

ess, distribute or dispense cannabis products, medical cannabis or hemp cannabis within the state.

5. Trucking permit - to allow for the trucking or transportation of cannabis products, medical cannabis or hemp cannabis by a person other than a registered organization or licensee under this chapter.

6. Warehouse permit - to allow for the storage of cannabis, cannabis products, medical cannabis or hemp cannabis at a location not otherwise registered or licensed by the office.

7. Delivery permit - to authorize licensed adult-use cannabis dispensaries to deliver adult-use cannabis and cannabis products directly to cannabis consumers.

8. Cannabinoid permit - to sell cannabinoid products derived from hemp cannabis for off-premises consumption.

9. Temporary retail cannabis permit - to authorize the retail sale of adult-use cannabis to cannabis consumers, for a limited purpose or duration.

10. Caterer's permit - to authorize the service of cannabis products at a function, occasion or event in a hotel, restaurant, club, ballroom or other premises, which shall authorize within the hours fixed by the office, during which cannabis may lawfully be sold or served on the premises in which such function, occasion or event is held.

11. Packaging permit - to authorize a licensed cannabis distributor to sort, package, label and bundle cannabis products from one or more registered organizations or licensed processors, on the premises of the licensed cannabis distributor or at a warehouse for which a permit has been issued under this section.

12. Miscellaneous permits - to purchase, receive or sell cannabis, cannabis products or medical cannabis, or receipts, certificates, contracts or other documents pertaining to cannabis, cannabis products, or medical cannabis, in cases not expressly provided for by this chapter, when in the judgment of the office it would be appropriate and consistent with the policy and purpose of this chapter.

§ 131. Professional and medical record keeping. Any professional providing services in connection with a licensed or potentially licensed business under this chapter, or in connection with other conduct permitted under this chapter, and any medical professional providing medical care to a patient, other than a certified patient, may agree with their client or patient to maintain no record, or any reduced level of record keeping that professional and client or patient may agree. In case of such agreement, the professional's only obligation shall be to keep such records as agreed, and to keep a record of the agreement. Such reduced record keeping is conduct permitted under this chapter.

§ 132. County opt-out; municipal control and preemption. 1. The provisions of article four of this chapter, authorizing the cultivation, processing, distribution and sale of adult-use cannabis to cannabis consumers, shall not be applicable to a county, or city having a population of one-hundred thousand or more residents, which adopts a local law, ordinance or resolution by a majority vote of its governing body to completely prohibit the establishment or operation of one or more types of licenses contained in article four of this chapter, within the jurisdiction of the county or city.

2. Except as provided for in subdivision one of this section, all county, town, city and village municipalities are hereby preempted from adopting any rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or hemp licenses. However, counties and, municipalities may

pass ordinances or regulations governing the time, place and manner of licensed adult-use cannabis retail dispensaries, provided such ordinance or regulation does not make the operation of such licensed retail dispensaries unreasonably impracticable as determined by the executive director in his or her sole discretion.

§ 133. Executive director to be necessary party to certain proceedings. The executive director shall be made a party to all actions and proceedings affecting in any manner the ability of a registered organization or licensee to operate within a municipality, or the result of any vote thereupon; to all actions and proceedings relative to issuance or revocation of registrations, licenses or permits; to all injunction proceedings, and to all other civil actions or proceedings which in any manner affect the enjoyment of the privileges or the operation of the restrictions provided for in this chapter.

§ 134. Penalties for violation of this chapter. 1. Any person who cultivates for sale or sells cannabis, cannabis products, medical cannabis or hemp cannabis without having an appropriate registration, license or permit therefor, or whose registration, license, or permit has been revoked, surrendered or cancelled, shall be guilty of a misdemeanor, and upon first conviction thereof shall be punished by a fine not more than five thousand dollars per instance or by imprisonment in a county jail or penitentiary for a term of not less than thirty days nor more than one year or both and upon second conviction thereof shall be punished by a fine not less than ten thousand dollars or by imprisonment in a county jail or penitentiary for a term of not less than thirty days nor more than one year or both and upon all subsequent convictions thereof shall be punished by a fine not less twenty-five thousand dollars or penitentiary for a term of not less than thirty days nor more than one year or both provided, however, that in default of payment of any fine imposed, such person shall be imprisoned in a county jail or penitentiary for a term of not less than thirty days.

2. Any registered organization or licensee, whose registration or license has been suspended pursuant to the provisions of this chapter, who sells cannabis, cannabis products, medical cannabis or hemp cannabis during the suspension period, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars per instance or by imprisonment in a county jail or penitentiary for a term of not more than six months, or by both such fine and imprisonment.

3. Any person who shall make any false statement in the application for a registration, license or a permit under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five thousand dollars, or by imprisonment in a county jail or penitentiary for a term of not more than six months or both.

4. Any violation by any person of any provision of this chapter for which no punishment or penalty is otherwise provided shall be a misdemeanor.

§ 135. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation. 1. Any registration, license or permit issued pursuant to this chapter may be revoked, cancelled, suspended and/or subjected to the imposition of a civil penalty for cause, and must be revoked for the following causes:

(a) conviction of the registered organization, licensee, permittee or his or her agent or employee for selling any illegal cannabis on the premises registered, licensed or permitted; or

(b) for transferring, assigning or hypothecating a registration, license or permit without prior written approval of the office.

2. Notwithstanding the issuance of a registration, license or permit by way of renewal, the office may revoke, cancel or suspend such registration, license or permit and/or may impose a civil penalty against any holder of such registration, license or permit, as prescribed by this section, for causes or violations occurring during the license period immediately preceding the issuance of such registration, license or permit.

3. (a) As used in this section, the term "for cause" shall also include the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the registered, licensed or permitted premises, or in the area in front of or adjacent to the registered or licensed premises, or in any parking lot provided by the registered organization or licensee for use by registered organization or licensee's patrons, which, in the judgment of the office, adversely affects or tends to affect the protection, health, welfare, safety, or repose of the inhabitants of the area in which the registered or licensed premises is located, or results in the licensed premises becoming a focal point for police attention, or is offensive to public decency.

(b) (i) As used in this section, the term "for cause" shall also include deliberately misleading the authority:

(A) as to the nature and character of the business to be operated by the registered organization, licensee or permittee; or

(B) by substantially altering the nature or character of such business during the registration or licensing period without seeking appropriate approvals from the office.

(ii) As used in this subdivision, the term "substantially altering the nature or character" of such business shall mean any significant alteration in the scope of business activities conducted by a registered organization, licensee or permittee that would require obtaining an alternate form of registration, license or permit.

4. As used in this chapter, the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the premises may be presumed upon the sixth incident reported to the office by a law enforcement agency, or discovered by the office during the course of any investigation, of misconduct, diversion or disorder on or about the premises or related to the operation of the premises, absent clear and convincing evidence of either fraudulent intent on the part of any complainant or a factual error with respect to the content of any report concerning such complaint relied upon by the office.

5. Notwithstanding any other provision of this chapter to the contrary, a suspension imposed under this section against the holder of a registration issued pursuant to article three of this chapter, shall only suspend the licensed activities related to the type of cannabis, medical cannabis or adult-use cannabis involved in the violation resulting in the suspension.

6. Any registration, license or permit issued by the office pursuant to this chapter may be revoked, cancelled or suspended and/or be subjected to the imposition of a monetary penalty in the manner prescribed by this section and by the executive director in regulation.

7. The office may on its own initiative, or on complaint of any person, institute proceedings to revoke, cancel or suspend any adult-use cannabis retail dispensary license or adult-use cannabis on-site

consumption license and may impose a civil penalty against the licensee after a hearing at which the licensee shall be given an opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed in regulation by the executive director.

8. All other registrations, licenses or permits issued under this chapter may be revoked, cancelled, suspended and/or made subject to the imposition of a civil penalty by the office after a hearing to be held in such manner and upon such notice as may be prescribed in regulation by the executive director.

9. Where a licensee or permittee is convicted of two or more qualifying offenses within a five-year period, the office, upon receipt of notification of such second or subsequent conviction, shall, in addition to any other sanction or civil or criminal penalty imposed pursuant to this chapter, impose on such licensee a civil penalty not to exceed ten thousand dollars. For purposes of this subdivision, a qualifying offense shall mean the unlawful sale of cannabis to a person under the age of twenty-one. For purposes of this subdivision, a conviction of a licensee or an employee or agent of such licensee shall constitute a conviction of such licensee.

§ 136. Lawful actions pursuant to this chapter. 1. Contracts related to the operation of registered organizations, licenses and permits under this chapter shall be lawful and shall not be deemed unenforceable on the basis that the actions permitted pursuant to the registration, license or permit are prohibited by federal law.

2. The following actions are not unlawful as provided under this chapter, shall not be an offense under any state or local law, and shall not result in any civil fine, seizure, or forfeiture of assets against any person acting in accordance with this chapter:

(a) Actions of a registered organization, licensee, or permittee, or the employees or agents of such registered organization, licensee or permittee, as permitted by this chapter and consistent with rules and regulations of the office, pursuant to a valid registration, license or permit issued by the office.

(b) Actions of those who allow property to be used by a registered organization, licensee, or permittee, or the employees or agents of such registered organization, licensee or permittee, as permitted by this chapter and consistent with rules and regulations of the office, pursuant to a valid registration, license or permit issued by the office.

(c) Actions of any person or entity, their employees, or their agents providing a service to a registered organization, licensee, permittee or a potential registered organization, licensee, or permittee, as permitted by this chapter and consistent with rules and regulations of the office, relating to the formation of a business.

(d) The purchase, possession, or consumption of cannabis, medical cannabis and hemp, as permitted by this chapter and consistent with rules and regulations of the office, obtained from a validly registered, licensed or permitted retailer.

§ 137. Review by courts. 1. The following actions by the office, and only the following actions by the office, shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules:

(a) Refusal by the office to issue a registration, license, or a permit.

(b) The revocation, cancellation or suspension of a registration, license, or permit by the office.

(c) The failure or refusal by the office to render a decision upon any application or hearing submitted to or held by the office within sixty days after such submission or hearing.

(d) The transfer by the office of a registration, license, or permit to any other entity or premises, or the failure or refusal by the office to approve such a transfer.

(e) Refusal to approve alteration of premises.

(f) Refusal to approve a corporate change in stockholders, stockholdings, officers or directors.

2. No stay shall be granted pending the determination of such matter except on notice to the office and only for a period of less than thirty days. In no instance shall a stay be granted where the office has issued a summary suspension of a registration, license, or permit for the protection of the public health, safety, and welfare.

§ 138. Illicit cannabis. 1. "Illicit cannabis" means and includes any cannabis product, medical cannabis or hemp cannabis owned, cultivated, distributed, bought, sold, packaged, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported, or on which any tax required to have been paid under any applicable state law has not been paid.

2. Any person who shall knowingly possess or have under his or her control any illicit cannabis is guilty of a misdemeanor.

3. Any person who shall knowingly barter or exchange with, or sell, give or offer to sell or to give another any illicit cannabis is guilty of a misdemeanor.

4. Any person who shall possess or have under his or her control or transport any illicit cannabis with intent to barter or exchange with, or to sell or give to another the same or any part thereof is guilty of a misdemeanor. Such intent is presumptively established by proof that the person knowingly possessed or had under his or her control one or more ounces of illicit cannabis. This presumption may be rebutted.

5. Any person who, being the owner, lessee, or occupant of any room, shed, tenement, booth or building, float or vessel, or part thereof, knowingly permits the same to be used for the cultivation, processing, distribution, purchase, sale, warehousing, transportation, or storage of any illicit cannabis, is guilty of a misdemeanor.

§ 139. Injunction for unlawful manufacturing, sale or consumption of cannabis. 1. If any person shall engage or participate or be about to engage or participate in the cultivation, production, distribution, traffic, or sale of cannabis products, medical cannabis or hemp cannabis in this state without obtaining the appropriate registration, license, or permit therefor, or shall traffic in cannabis products, medical cannabis or hemp cannabis contrary to any provision of this chapter, or otherwise unlawfully, or shall traffic in illegal cannabis products, medical cannabis or hemp cannabis, or, operating a place for profit or pecuniary gain, with a capacity for the assemblage of twenty or more persons, shall permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products without having the appropriate license or permit therefor, the office may present a verified petition or complaint to a justice of the supreme court at a special term of the supreme court of the judicial district in which such city, village or town is situated, for an order enjoining such person engaging or participating in such activity or from carrying on such business. Such petition or complaint shall state the facts upon which such application is based. Upon the presentation of the petition or complaint, the justice or court may grant an order temporarily restrain-

ing any person from continuing to engage in conduct as specified in the petition or complaint, and shall grant an order requiring such person to appear before such justice or court at or before a special term of the supreme court in such judicial district on the day specified therein, not more than ten days after the granting thereof, to show cause why such person should not be permanently enjoined from engaging or participating in such activity or from carrying on such business, or why such person should not be enjoined from carrying on such business contrary to the provisions of this chapter. A copy of such petition or complaint and order shall be served upon the person, in the manner directed by such order, not less than three days before the return day thereof. On the day specified in such order, the justice or court before whom the same is returnable shall hear the proofs of the parties and may, if deemed necessary or proper, take testimony in relation to the allegations of the petition or complaint. If the justice or court is satisfied that such person is about to engage or participate in the unlawful traffic in cannabis, medical cannabis or hemp cannabis or has unlawfully cultivated, processed, or sold cannabis products, medical cannabis or hemp cannabis without having obtained a registration or license or contrary to the provisions of this chapter, or has trafficked in illegal cannabis, or, is operating or is about to operate such place for profit or pecuniary gain, with such capacity, and has permitted or is about to permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products without having such appropriate license, an order shall be granted enjoining such person from thereafter engaging or participating in or carrying on such activity or business. If, after the entry of such an order in the county clerk's office of the county in which the principal place of business of the corporation or partnership is located, or in which the individual so enjoined resides or conducts such business, and the service of a copy thereof upon such person, or such substituted service as the court may direct, such person, partnership or corporation shall, in violation of such order, cultivate, process, distribute or sell cannabis products, medical cannabis or hemp cannabis, or illegal cannabis products, medical cannabis or hemp cannabis, or permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products, such activity shall be deemed a contempt of court and be punishable in the manner provided by the judiciary law, and, in addition to any such punishment, the justice or court before whom or which the petition or complaint is heard, may, in his or its discretion, order the seizure and forfeiture of any cannabis products and any fixtures, equipment and supplies used in the operation or promotion of such illegal activity and such property shall be subject to forfeiture pursuant to law. Costs upon the application for such injunction may be awarded in favor of and against the parties thereto in such sums as in the discretion of the justice or court before whom or which the petition or complaint is heard may seem proper.

2. The owner, lessor and lessee of a building, erection or place where cannabis products, medical cannabis or hemp cannabis is unlawfully cultivated, processed, distributed, sold, consumed or permitted to be unlawfully cultivated, processed, distributed, sold or consumed may be made a respondent or defendant in the proceeding or action.

§ 140. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products. 1. The following are forbidden to traffic in cannabis:

(a) Except as provided in subdivision one-a of this section, a person who has been convicted of a felony, unless subsequent to such conviction such person shall have received an executive pardon therefor removing this disability, a certificate of good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction;

(b) A person under the age of twenty-one years;

(c) A person who is not a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(d) A partnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, not less than twenty-one years of age, and has not been convicted of any felony, or if so convicted has received, subsequent to such conviction, an executive pardon therefor removing this disability a certificate of good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are not less than twenty-one years of age and none of its directors are less than eighteen years of age; and provided further that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than eighteen years of age;

(e) A person who shall have had any registration or license issued under this chapter revoked for cause, until the expiration of two years from the date of such revocation;

(f) A person not registered or licensed under the provisions of this chapter, who has been convicted of a violation of this chapter, until the expiration of two years from the date of such conviction; or

(g) A corporation or partnership, if any officer and director or any partner, while not licensed under the provisions of this chapter, has been convicted of a violation of this chapter, or has had a registration or license issued under this chapter revoked for cause, until the expiration of two years from the date of such conviction or revocation.

1-a. Notwithstanding the provision of subdivision one of this section, a corporation holding a registration or license to traffic cannabis products or medical cannabis shall not, upon conviction of a felony be automatically forbidden to traffic in cannabis products or medical cannabis, but the application for a registered organization or license

by such a corporation shall be subject to denial, and the registration or license of such a corporation shall be subject to revocation or suspension by the office pursuant, consistent with the provisions of article twenty-three-A of the correction law. For any felony conviction by a court other than a court of this state, the office may request the department of corrections and community supervision to investigate and review the facts and circumstances concerning such a conviction, and such department shall, if so requested, submit its findings to the office as to whether the corporation has conducted itself in a manner such that discretionary review by the office would not be inconsistent with the public interest. The department of corrections and community supervision may charge the registered organization, licensee or applicant a fee equivalent to the expenses of an appropriate investigation under this subdivision. For any conviction rendered by a court of this state, the office may request the corporation, if the corporation is eligible for a certificate of relief from disabilities, to seek such a certificate from the court which rendered the conviction and to submit such a certificate as part of the office's discretionary review process.

2. Except as may otherwise be provided for in regulation, it shall be unlawful for any police commissioner, police inspector, captain, sergeant, roundsman, patrolman or other police official or subordinate of any police department in the state, to be either directly or indirectly interested in the cultivation, processing, distribution, or sale of cannabis products or to offer for sale, or recommend to any registered organization or licensee any cannabis products. A person may not be denied any registration or license granted under the provisions of this chapter solely on the grounds of being the spouse of a public servant described in this section. The solicitation or recommendation made to any registered organization or licensee, to purchase any cannabis products by any police official or subordinate as hereinabove described, shall be presumptive evidence of the interest of such official or subordinate in the cultivation, processing, distribution, or sale of cannabis products.

3. No elective village officer shall be subject to the limitations set forth in subdivision two of this section unless such elective village officer shall be assigned duties directly relating to the operation or management of the police department.

§ 141. Access to criminal history information through the division of criminal justice services. In connection with the administration of this chapter, the executive director is authorized to request, receive and review criminal history information through the division of criminal justice services with respect to any person seeking a registration, license, permit or authorization to cultivate, process, distribute or sell medical cannabis, adult use cannabis or hemp cannabis. At the executive director's request, each person, member, principal and/or officer of the applicant shall submit to the office his or her fingerprints in such form and in such manner as specified by the division, for the purpose of conducting a criminal history search and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the prescribed processing fees for the cost of the division's full search and retain procedures and a national criminal history record check. The executive director, or his or her designee, shall submit such fingerprints and the processing fee to the division. The division shall forward to the executive director a report with respect to the applicant's previous criminal

history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check. If additional copies of fingerprints are required, the applicant shall furnish them upon request.

§ 3. Intentionally omitted.

§ 4. Section 3302 of the public health law, as added by chapter 878 of the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998, subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of subdivision 20, the opening paragraph of subdivision 22 and subdivision 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as amended by section 4 of part A of chapter 58 of the laws of 2004, subdivision 41 as added by section 6 of part A of chapter 447 of the laws of 2012, and subdivisions 42 and 43 as added by section 13 of part D of chapter 60 of the laws of 2014, is amended to read as follows:

§ 3302. Definitions of terms of general use in this article. Except where different meanings are expressly specified in subsequent provisions of this article, the following terms have the following meanings:

1. "Addict" means a person who habitually uses a controlled substance for a non-legitimate or unlawful use, and who by reason of such use is dependent thereon.

2. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

3. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. No person may be authorized to so act if under title VIII of the education law such person would not be permitted to engage in such conduct. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

4. [~~"Concentrated Cannabis" means~~

~~(a) the separated resin, whether crude or purified, obtained from a plant of the genus Cannabis; or~~

~~(b) a material, preparation, mixture, compound or other substance which contains more than two and one-half percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta-1 (6) monoterpene numbering system.~~

~~5.~~] "Controlled substance" means a substance or substances listed in section thirty-three hundred six of this [~~chapter~~] **title**.

[~~6.~~] **5.** "Commissioner" means commissioner of health of the state of New York.

[~~7.~~] **6.** "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

[~~8.~~] **7.** "Department" means the department of health of the state of New York.

[~~9.~~] **8.** "Dispense" means to deliver a controlled substance to an ultimate user or research subject by lawful means, including by means of the

internet, and includes the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

[~~10.~~] 9. "Distribute" means to deliver a controlled substance, including by means of the internet, other than by administering or dispensing.

[~~11.~~] 10. "Distributor" means a person who distributes a controlled substance.

[~~12.~~] 11. "Diversion" means manufacture, possession, delivery or use of a controlled substance by a person or in a manner not specifically authorized by law.

[~~13.~~] 12. "Drug" means

(a) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; and

(c) substances (other than food) intended to affect the structure or a function of the body of man or animal. It does not include devices or their components, parts, or accessories.

[~~14.~~] 13. "Federal agency" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

[~~15.~~] 14. "Federal controlled substances act" means the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and any act or acts amendatory or supplemental thereto or regulations promulgated thereunder.

[~~16.~~] 15. "Federal registration number" means such number assigned by the Federal agency to any person authorized to manufacture, distribute, sell, dispense or administer controlled substances.

[~~17.~~] 16. "Habitual user" means any person who is, or by reason of repeated use of any controlled substance for non-legitimate or unlawful use is in danger of becoming, dependent upon such substance.

[~~18.~~] 17. "Institutional dispenser" means a hospital, veterinary hospital, clinic, dispensary, maternity home, nursing home, mental hospital or similar facility approved and certified by the department as authorized to obtain controlled substances by distribution and to dispense and administer such substances pursuant to the order of a practitioner.

[~~19.~~] 18. "License" means a written authorization issued by the department or the New York state department of education permitting persons to engage in a specified activity with respect to controlled substances.

[~~20.~~] 19. "Manufacture" means the production, preparation, propagation, compounding, cultivation, conversion or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of a controlled substance:

(a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) by a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

[~~21. "Marihuana" means all parts of the 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. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.~~

~~22.~~] **20.** "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in [~~subdivision~~] **paragraph** (a) **of this subdivision**, but not including the isoquinoline alkaloids of opium;

(c) opium poppy and poppy straw.

[~~23.~~] **21.** "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section [~~3306~~] **thirty-three hundred six** of this [~~article~~] **title**, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

[~~24.~~] **22.** "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

[~~25.~~] **23.** "Person" means individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

[~~26.~~] **24.** "Pharmacist" means any person licensed by the state department of education to practice pharmacy.

[~~27.~~] **25.** "Pharmacy" means any place registered as such by the New York state board of pharmacy and registered with the Federal agency pursuant to the federal controlled substances act.

[~~28.~~] **26.** "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

[~~29.~~] **27.** "Practitioner" means:

A physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" only as to such substances, or conduct relating to such substances, as is permitted by his license, permit or otherwise permitted by law.

[~~30.~~] **28.** "Prescribe" means a direction or authorization, by prescription, permitting an ultimate user lawfully to obtain controlled substances from any person authorized by law to dispense such substances.

[~~31.~~] 29. "Prescription" shall mean an official New York state prescription, an electronic prescription, an oral prescription[~~,~~] or an out-of-state prescription[~~, or any one~~].

[~~32.~~] 30. "Sell" means to sell, exchange, give or dispose of to another, or offer or agree to do the same.

[~~33.~~] 31. "Ultimate user" means a person who lawfully obtains and possesses a controlled substance for his own use or the use by a member of his household or for an animal owned by him or in his custody. It shall also mean and include a person designated, by a practitioner on a prescription, to obtain such substance on behalf of the patient for whom such substance is intended.

[~~34.~~] 32. "Internet" means collectively computer and telecommunications facilities which comprise the worldwide network of networks that employ a set of industry standards and protocols, or any predecessor or successor protocol to such protocol, to exchange information of all kinds. "Internet," as used in this article, also includes other networks, whether private or public, used to transmit information by electronic means.

[~~35.~~] 33. "By means of the internet" means any sale, delivery, distribution, or dispensing of a controlled substance that uses the internet, is initiated by use of the internet or causes the internet to be used.

[~~36.~~] 34. "Online dispenser" means a practitioner, pharmacy, or person in the United States that sells, delivers or dispenses, or offers to sell, deliver, or dispense, a controlled substance by means of the internet.

[~~37.~~] 35. "Electronic prescription" means a prescription issued with an electronic signature and transmitted by electronic means in accordance with regulations of the commissioner and the commissioner of education and consistent with federal requirements. A prescription generated on an electronic system that is printed out or transmitted via facsimile is not considered an electronic prescription and must be manually signed.

[~~38.~~] 36. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities. "Electronic" shall not include facsimile.

[~~39.~~] 37. "Electronic record" means a paperless record that is created, generated, transmitted, communicated, received or stored by means of electronic equipment and includes the preservation, retrieval, use and disposition in accordance with regulations of the commissioner and the commissioner of education and in compliance with federal law and regulations.

[~~40.~~] 38. "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record, in accordance with regulations of the commissioner and the commissioner of education.

[~~41.~~] 39. "Registry" or "prescription monitoring program registry" means the prescription monitoring program registry established pursuant to section thirty-three hundred forty-three-a of this article.

[~~42.~~] 40. "Compounding" means the combining, admixing, mixing, diluting, pooling, reconstituting, or otherwise altering of a drug or bulk drug substance to create a drug with respect to an outsourcing facility under section 503B of the federal Food, Drug and Cosmetic Act and further defined in this section.

[~~43.~~] 41. "Outsourcing facility" means a facility that:

(a) is engaged in the compounding of sterile drugs as defined in section sixty-eight hundred two of the education law;

(b) is currently registered as an outsourcing facility pursuant to article one hundred thirty-seven of the education law; and

(c) complies with all applicable requirements of federal and state law, including the Federal Food, Drug and Cosmetic Act.

Notwithstanding any other provision of law to the contrary, when an outsourcing facility distributes or dispenses any drug to any person pursuant to a prescription, such outsourcing facility shall be deemed to be providing pharmacy services and shall be subject to all laws, rules and regulations governing pharmacies and pharmacy services.

§ 5. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the laws of 2006, are amended to read as follows:

(13) [~~Marihuana.~~

~~(14)~~] Mescaline.

[~~(15)~~] **(14)** Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

[~~(16)~~] **(15)** Peyote. Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts.

[~~(17)~~] **(16)** N-ethyl-3-piperidyl benzilate.

[~~(18)~~] **(17)** N-methyl-3-piperidyl benzilate.

[~~(19)~~] **(18)** Psilocybin.

[~~(20)~~] **(19)** Psilocyn.

[~~(21)~~] **(20)** Tetrahydrocannabinols. Synthetic **tetrahydrocannabinols not derived from the cannabis plant that are** equivalents of the substances contained in the plant, or in the resinous extractives of cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

[~~/\~~] **delta** 1 cis or trans tetrahydrocannabinol, and their optical isomers

[~~/\~~] **delta** 6 cis or trans tetrahydrocannabinol, and their optical isomers

[~~/\~~] **delta** 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

[~~(22)~~] **(21)** Ethylamine analog of phencyclidine. Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

[~~(23)~~] **(22)** Pyrrolidine analog of phencyclidine. Some trade or other names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

[~~(24)~~] **(23)** Thiophene analog of phencyclidine. Some trade or other names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP.

[~~(25)~~] **(24)** 3,4-methylenedioxymethamphetamine (MDMA).

[~~(26)~~] **(25)** 3,4-methylendioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA.

[~~(27)~~] **(26)** N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hydroxy MDA.

[~~(28)~~] **(27)** 1-{1- (2-thienyl) cyclohexyl} pyrrolidine. Some other names: TCPY.

[~~(29)~~] **(28)** Alpha-ethyltryptamine. Some trade or other names: etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine; 3- (2-aminobutyl) indole; Alpha-ET or AET.

[~~(30)~~] **(29)** 2,5-dimethoxy-4-ethylamphetamine. Some trade or other names: DOET.

[~~(31)~~] **(30)** 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.

[~~(32)~~] **(31)** 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts and salts of isomers.

§ 6. Title 5-A of article 33 of the public health law is REPEALED.

§ 7. Section 3382 of the public health law, as added by chapter 878 of the laws of 1972, is amended to read as follows:

§ 3382. Growing of the plant known as Cannabis by unlicensed persons. A person who, without being licensed so to do under this article **or articles three, four or five of the cannabis law**, grows the plant of the genus Cannabis or knowingly allows it to grow on his land without destroying the same, shall be guilty of a class A misdemeanor.

§ 8. Subdivision 1 of section 3397-b of the public health law, as added by chapter 810 of the laws of 1980, is amended to read as follows:

1. [~~"Marijuana"~~] **"Cannabis"** means [~~marijuana~~] **cannabis** as defined in [~~section thirty-three hundred two of this chapter~~] **subdivision three of section three of the cannabis law** and shall also include tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinol.

§ 9. Subdivision 8 of section 1399-n of the public health law, as amended by chapter 13 of the laws of 2003, is amended to read as follows:

8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco **or cannabis**.

§ 10. Subdivisions 5, 6 and 9 of section 220.00 of the penal law, subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as amended by chapter 664 of the laws of 1985, are amended and a new subdivision 21 is added to read as follows:

5. "Controlled substance" means any substance listed in schedule I, II, III, IV or V of section thirty-three hundred six of the public health law other than [~~marihuana~~] **cannabis as defined in subdivision six of this section**, but including concentrated cannabis as defined in [~~paragraph (a) of subdivision four of section thirty-three hundred two of such law~~] **subdivision twenty-one of this section**.

6. [~~"Marihuana"~~] **"Cannabis"** means [~~"marihuana" or "concentrated cannabis" as those terms are defined in section thirty-three hundred two of the public health law~~] **all parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, or its seeds. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include all**

parts of the plant cannabis sativa l., whether growing or not, having no more than three-tenths of one percent tetrahydrocannabinol (THC).

9. "Hallucinogen" means any controlled substance listed in schedule I(d) (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18), (19), (20) and (21).

21. "Concentrated cannabis" means: (a) the separated resin, whether crude or purified, obtained from a plant of the genus cannabis; or (b) a material, preparation, mixture, compound or other substance which contains more than three percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering system.

§ 11. Subdivision 4 of section 220.06 of the penal law is REPEALED.

§ 12. Subdivision 10 of section 220.09 of the penal law is REPEALED.

§ 13. Subdivision 3 of section 220.34 of the penal law is REPEALED.

3. concentrated cannabis as defined in [~~paragraph (a) of subdivision four of section thirty-three hundred two of the public health law~~] subdivision twenty-one of section 220.00 of this article; or

§ 14. Section 220.50 of the penal law, as amended by chapter 627 of the laws of 1990, is amended to read as follows:

§ 220.50 Criminally using drug paraphernalia in the second degree.

A person is guilty of criminally using drug paraphernalia in the second degree when he knowingly possesses or sells:

1. Diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, mannitol, mannite, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purposes of unlawfully mixing, compounding, or otherwise preparing any narcotic drug or stimulant, other than cannabis or concentrated cannabis; or

2. Gelatine capsules, glassine envelopes, vials, capsules or any other material suitable for the packaging of individual quantities of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for the purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant, other than cannabis or concentrated cannabis; or

3. Scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant, other than cannabis or concentrated cannabis.

Criminally using drug paraphernalia in the second degree is a class A misdemeanor.

§ 15. Section 221.00 of the penal law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

§ 221.00 [~~Marihuana~~] Cannabis; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter. Any act that is lawful under [~~title five-A of article thirty-three of the public health~~] articles three, four or five, of the cannabis law is not a violation of this article.

§ 15-a. Section 221.00 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.00 [~~Marihuana~~] **Cannabis**; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter.

§ 16. Section 221.05 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.05 Unlawful possession of [~~marihuana~~] **cannabis**.

A person is guilty of unlawful possession of [~~marihuana~~] **cannabis** when he **or she** knowingly and unlawfully possesses [~~marihuana.~~]**:**

1. cannabis and is less than twenty-one years of age; or

2. cannabis in a public place, as defined in section 240.00 of this part, and such cannabis is burning.

Unlawful possession of [~~marihuana~~] **cannabis** is a violation punishable only by a fine of not more than [~~one hundred~~] **fifty** dollars[~~. However, where the defendant has previously been convicted of an offense defined in this article or article 220 of this chapter, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period~~] **when such possession is by a person less than twenty-one years of age and of an aggregate weight of less than one-half of one ounce or a fine of not more than one hundred dollars when such possession is by a person less than twenty-one years of age and of an aggregate weight more than one-half of one ounce but not more than one ounce. Unlawful possession of marijuana is punishable by a fine of not more than one hundred twenty-five dollars when such possession is in a public place and such cannabis is burning. The term burning in this section shall have the same meaning as the term vaping as defined in subdivision eight of section thirteen hundred ninety-nine-n of the public health law**.

§ 17. Section 221.15 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.15 Criminal possession of [~~marihuana~~] **cannabis** in the [~~fourth~~] **third** degree.

A person is guilty of criminal possession of [~~marihuana~~] **cannabis** in the [~~fourth~~] **third** degree when he **or she** knowingly and unlawfully possesses [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~two ounces~~] **one ounce of cannabis or more than five grams of concentrated cannabis**.

Criminal possession of [~~marihuana~~] **cannabis** in the [~~fourth~~] **third** degree is a [~~class A misdemeanor~~] **violation punishable by a fine of not more than one hundred twenty-five dollars. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law**.

§ 18. Section 221.20 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.20 Criminal possession of [~~marihuana~~] **cannabis** in the [~~third~~] **second** degree.

A person is guilty of criminal possession of [~~marihuana~~] **cannabis** in the [~~third~~] **second** degree when he **or she** knowingly and unlawfully possesses [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~eight~~] **two** ounces **of cannabis or more than ten grams of concentrated cannabis**.

Criminal possession of [~~marihuana~~] **cannabis** in the [~~third~~] **second** degree is a class [~~E felony~~] **A misdemeanor punishable by a fine not more than one hundred twenty-five dollars per ounce possessed in excess of two ounces. However, where the defendant has previously been convicted of an offense defined in this article or article two hundred twenty of this title, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars per ounce possessed in excess of two ounces, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars per ounce possessed in excess of two ounces or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law**.

§ 19. Section 221.25 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.25 Criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** degree.

A person is guilty of criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** degree when he **or she** knowingly and unlawfully possesses [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~sixteen~~] **sixty-four** ounces **of cannabis or more than eighty grams of concentrated cannabis**.

Criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** degree is a class [~~D~~] **E** felony.

§ 20. Sections 221.10 and 221.30 of the penal law are REPEALED.

§ 21. Section 221.35 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.35 Criminal sale of [~~marihuana~~] **cannabis** in the fifth degree.

A person is guilty of criminal sale of [~~marihuana~~] **cannabis** in the fifth degree when he **or she** knowingly and unlawfully sells, [~~without~~] **for** consideration[~~, one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are~~] **cannabis or cannabis concentrate** of [~~an aggregate weight of two grams or less; or one cigarette containing marihuana~~] **any weight**.

Criminal sale of [~~marihuana~~] **cannabis** in the fifth degree is a [~~class B misdemeanor~~] **violation punishable by a fine not more than the greater of two-hundred and fifty dollars or two times the value of the sale**.

§ 22. Section 221.40 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.40 Criminal sale of [~~marihuana~~] **cannabis** in the fourth degree.

A person is guilty of criminal sale of [~~marihuana~~] **cannabis** in the fourth degree when he **or she** knowingly and unlawfully sells [~~marihuana except as provided in section 221.35 of this article~~] **cannabis of an**

aggregate weight of more than one ounce or more than five grams of cannabis concentrate.

Criminal sale of [~~marihuana~~] cannabis in the fourth degree is a [~~class A~~] misdemeanor punishable by a fine of not more than the greater of five hundred dollars or two times the value of the sale or a maximum of three months imprisonment, or both.

§ 23. Section 221.45 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.45 Criminal sale of [~~marihuana~~] cannabis in the third degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the third degree when he or she knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams~~] four ounces of cannabis or more than twenty grams of concentrated cannabis.

Criminal sale of [~~marihuana~~] cannabis in the third degree is a [~~class E felony~~] misdemeanor punishable by a fine of not more than the greater of one thousand dollars or two times the value of the sale or a maximum of one year imprisonment or both.

§ 24. Section 221.50 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.50 Criminal sale of [~~marihuana~~] cannabis in the second degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the second degree when he knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of~~] more than [~~four ounces, or knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana to a person less than eighteen years of age~~] sixteen ounces of cannabis or more than eighty grams of concentrated cannabis or any amount of cannabis or concentrated cannabis to any person under twenty-one years of age.

Criminal sale of [~~marihuana~~] cannabis in the second degree is a class D felony.

§ 25. Section 221.55 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.55 Criminal sale of [~~marihuana~~] cannabis in the first degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the first degree when he knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of~~] more than [~~sixteen~~] sixty-four ounces of cannabis or three hundred and twenty grams of cannabis concentrate.

Criminal sale of [~~marihuana~~] cannabis in the first degree is a class C felony.

§ 26. The penal law is amended by adding a new section 221.60 to read as follows:

§ 221.60 Licensing of cannabis production and distribution.

The provisions of this article and of article two hundred twenty of this title shall not apply to any person exempted from criminal penalties pursuant to the provisions of this chapter or possessing, manufacturing, transporting, distributing, selling or transferring cannabis or

concentrated cannabis, or engaged in any other action that is in compliance with articles three, four or five of the cannabis law.

§ 27. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50 of the criminal procedure law, paragraphs (i) and (j) as added by chapter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of the laws of 1977 and as relettered by chapter 192 of the laws of 1980 and such subdivision as renumbered by chapter 142 of the laws of 1991, are amended to read as follows:

(i) prior to the filing of an accusatory instrument in a local criminal court against such person, the prosecutor elects not to prosecute such person. In such event, the prosecutor shall serve a certification of such disposition upon the division of criminal justice services and upon the appropriate police department or law enforcement agency which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one[~~.~~]; or

(j) following the arrest of such person, the arresting police agency, prior to the filing of an accusatory instrument in a local criminal court but subsequent to the forwarding of a copy of the fingerprints of such person to the division of criminal justice services, elects not to proceed further. In such event, the head of the arresting police agency shall serve a certification of such disposition upon the division of criminal justice services which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one[~~.~~]; or

(k) (i) The accusatory instrument alleged a violation of article two hundred twenty or section 240.36 of the penal law, prior to the taking effect of article two hundred twenty-one of the penal law and the sole conrolled substance involved is cannabis, or a violation of [~~article two hundred twenty-one~~] section 221.05, 221.10 or 221.35 of the penal law; [~~(ii) the sole controlled substance involved is marijuana; (iii) the conviction was only for a violation or violations; and (iv) at least three years have passed since the offense occurred.~~] No defendant shall be required or permitted to waive eligibility for sealing pursuant to this paragraph as part of a plea of guilty, sentence or any agreement.

§ 27-a. Paragraph (h) and subparagraph (ii) of paragraph (i) of subdivision 1 of section 440.10 of the criminal procedure law, paragraph (h) as amended by chapter 332 of the laws of 2010 and subparagraph (ii) of paragraph (i) as amended by chapter 368 of the laws of 2015, are amended and a new paragraph (j) is added to read as follows:

(h) The judgment was obtained in violation of a right of the defendant under the constitution of this state or of the United States; [~~or~~]

(ii) official documentation of the defendant's status as a victim of trafficking, compelling prostitution or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking, compelling prostitution or trafficking in persons, but shall not be required for granting a motion under this paragraph[~~.~~]; or

(j) The judgment occurred prior to the effective date of this paragraph and is a conviction for: (i) an offense as defined by section 221.05 or 221.10 of the penal law as in effect prior to the effective date of this paragraph, provided that the accusatory instrument that

underlies the judgment does not include an allegation that the defendant possessed more than twenty-five grams of cannabis.

§ 28. Paragraph (f) of subdivision 2 of section 850 of the general business law is REPEALED.

§ 29. Paragraph (h) of subdivision 2 of section 850 of the general business law, as amended by chapter 812 of the laws of 1980, is amended to read as follows:

(h) Objects, used or designed for the purpose of ingesting, inhaling, or otherwise introducing [~~marihuana,~~] cocaine, hashish, or hashish oil into the human body.

§ 30. Section 114-a of the vehicle and traffic law, as added by chapter 163 of the laws of 1973, is amended to read as follows:

§ 114-a. Drug. The term "drug" when used in this chapter, means and includes any substance listed in section thirty-three hundred six of the public health law **and any substance or combination of substances that impair, to any extent, physical or mental abilities**.

§ 31. The article heading of article 20-B of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

ARTICLE 20-B

EXCISE TAX ON MEDICAL [~~MARIHUANA~~] **CANNABIS**

§ 32. The paragraph heading and subparagraph (i) of paragraph (b) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, are amended to read as follows:

Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses. (i) A violation of subdivision two, three, **or** four [~~or four-a~~] of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. A violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment.

§ 33. Paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, is amended by adding a new subparagraph (i-a) to read as follows:

(i-a) A violation of subdivision four-a of section eleven hundred ninety-two of this article shall be a class E felony, and shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

§ 33-a. Paragraph (b) of subdivision 1 of section 1194 of the vehicle and traffic law, as amended by chapter 406 of the laws of 1988, is amended to read as follows:

(b) Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath **and/or saliva** test to be administered by the police officer. If such test **or tests** indicate[~~s~~] that such operator has consumed alcohol **or drug or drugs**, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision two of this section.

§ 34. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part MM of chapter 59 of the laws of 2018, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, **twenty-C,** twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is

certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 35. Section 490 of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 490. [~~Definitions~~] **Excise tax on medical cannabis**. 1. (a) [~~All definitions of terms applicable to title five-A of article thirty-three of the public health law shall apply to this article.~~] **For purposes of this article, the terms "medical cannabis," "registered organization," "certified patient," and "designated caregiver" shall have the same definitions as in section three of the cannabis law.**

(b) As used in this section, where not otherwise specifically defined and unless a different meaning is clearly required "gross receipt" means the amount received in or by reason of any sale, conditional or otherwise, of medical [~~marihuana~~] **cannabis** or in or by reason of the furnishing of medical [~~marihuana~~] **cannabis** from the sale of medical [~~marihuana~~] **cannabis** provided by a registered organization to a certified patient or designated caregiver. Gross receipt is expressed in money, whether paid in cash, credit or property of any kind or nature, and shall be determined without any deduction therefrom on account of the cost of the service sold or the cost of materials, labor or services used or other costs, interest or discount paid, or any other expenses whatsoever. "Amount received" for the purpose of the definition of gross receipt, as the term gross receipt is used throughout this article, means the amount charged for the provision of medical [~~marihuana~~] **cannabis**.

2. There is hereby imposed an excise tax on the gross receipts from the sale of medical [~~marihuana~~] **cannabis** by a registered organization to a certified patient or designated caregiver, to be paid by the registered organization, at the rate of seven percent. The tax imposed by this article shall be charged against and be paid by the registered organization and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

3. The commissioner may make, adopt and amend rules, regulations, procedures and forms necessary for the proper administration of this article.

4. Every registered organization that makes sales of medical [~~marihuana~~] **cannabis** subject to the tax imposed by this article shall, on or before the twentieth date of each month, file with the commissioner a return on forms to be prescribed by the commissioner, showing its receipts from the retail sale of medical [~~marihuana~~] **cannabis** during the preceding calendar month and the amount of tax due thereon. Such returns shall contain such further information as the commissioner may require. Every registered organization required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due on its retail sales of medical [~~marihuana~~] **cannabis** for the period covered by such return. If a return is not filed when due, the tax shall be due on the day on which the return is required to be filed.

5. Whenever the commissioner shall determine that any moneys received under the provisions of this article were paid in error, he may cause the same to be refunded, with interest, in accordance with such rules and regulations as he may prescribe, except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter, or if no rate is set, at the rate of six percent per annum, from the date when the tax, penalty or interest to be refunded was paid to a date preceding the date of the refund check by not more than thirty days. Provided, however, that for the purposes of this subdivision, any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. Such moneys received under the provisions of this article which the commissioner shall determine were paid in error, may be refunded out of funds in the custody of the comptroller to the credit of such taxes provided an application therefor is filed with the commissioner within two years from the time the erroneous payment was made.

6. The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

7. 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, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the medical [~~marihuana~~] **cannabis**

trust fund established by section eighty-nine-h of the state finance law.

8. A registered organization that dispenses medical [~~marihuana~~] **cannabis** shall provide to the department information on where the medical [~~marihuana~~] **cannabis** was dispensed and where the medical [~~marihuana~~] **cannabis** was manufactured. A registered organization that obtains [~~marihuana~~] **cannabis** from another registered organization shall obtain from such registered organization information on where the medical [~~marihuana~~] **cannabis** was manufactured.

§ 36. Section 491 of the tax law, as added by chapter 90 of the laws of 2014, subdivision 1 as amended by section 1 of part II of chapter 60 of the laws of 2016, is amended to read as follows:

§ 491. Returns to be secret. 1. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person engaged or retained by such department on an independent contract basis or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the contents or any other information relating to the business of a distributor, owner or other person contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, [~~the state department of health~~] **office of cannabis management**, or the commissioner in an action or proceeding under the provisions of this chapter or on behalf of the state or the commissioner in any other action or proceeding involving the collection of a tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding relating to the regulation or taxation of medical [~~marihuana~~] **cannabis** on behalf of officers to whom information shall have been supplied as provided in subdivision two of this section, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the [~~state department of health~~] **office of cannabis management**; or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a registered organization or other person under this article; nor to prohibit the delivery to a registered organization, or a duly authorized

representative of such registered organization, a certified copy of any return or report filed by such registered organization pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all the registered organizations making sales of, or manufacturing, medical [~~marihuana~~] **cannabis** in a specified county, whether the number of such registered organizations is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may, in his or her discretion, permit the proper officer of any county entitled to receive an allocation, following appropriation by the legislature, pursuant to this article and section eighty-nine-h of the state finance law, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or such representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

2. The commissioner, in his or her discretion and pursuant to such rules and regulations as he or she may adopt, may permit [~~the commissioner of internal revenue of the United States, or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] **cannabis**, or the duly authorized representatives of such [~~commissioner or of any such~~] officers, to inspect returns or reports made pursuant to this article, or may furnish to such [~~commissioner or~~] other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply [~~such commissioner or~~] any such officers or such representatives with information relating to the business of a registered organization making returns or reports hereunder. The commissioner may refuse to supply information pursuant to this subdivision [~~to the commissioner of internal revenue of the United States or~~] to the officers of any other state if the statutes [~~of the United States, or~~] of the state represented by such officers, do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to [~~the commissioner of internal revenue of the United States or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] **cannabis**, or the duly authorized representatives [~~of such commissioner or~~] of any of such officers, unless such [~~commissioner,~~] officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such [~~commissioner,~~] officer or other representatives.

3. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 37. The tax law is amended by adding a new article 20-C to read as follows:

ARTICLE 20-C
TAX ON ADULT-USE CANNABIS PRODUCTS

Section 492. Definitions.
493. Tax on cannabis.
494. Registration and renewal.
495. Returns and payment of tax.
496. Returns to be kept secret.

§ 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.

§ 493. Tax on cannabis. (a) There is hereby imposed and shall be paid a tax on the cultivation of cannabis flower and cannabis trim at the rate of one dollar per dry-weight gram of cannabis flower and twenty-five cents per dry-weight gram of cannabis trim. Where the wholesaler is not the cultivator, such tax shall be collected from the cultivator by the wholesaler at the time such flower or trim is transferred to the wholesaler. Where the wholesaler is the cultivator, such tax shall be paid by the wholesaler and shall accrue at the time of sale or transfer to a retail dispensary. Where the cultivator is also the retail dispensary, such tax shall accrue at the time of the sale to the retail customer.

(b) In addition to the tax imposed by subdivision (a) of this section, there is hereby imposed a tax on the sale or transfer by a wholesaler to a retail dispensary of adult-use cannabis products, to be paid by such wholesaler. Where the wholesaler is not the retail dispensary, such tax shall be at the rate of twenty percent of the invoice price charged by the wholesaler to a retail dispensary, and shall accrue at the time of such sale. Where the wholesaler is the retail dispensary, such tax shall be at the rate of twenty percent of the price charged to the retail customer and shall accrue at the time of such sale.

(c) In addition to the taxes imposed by subdivisions (a) and (b) of this section, there is hereby imposed a tax on the sale or transfer by a wholesaler to a retail dispensary of adult-use cannabis products, in trust for and on account of the county in which the retail dispensary is located. Such tax shall be paid by the wholesaler and shall accrue at the time of such sale. Where the wholesaler is not the retail dispensary, such tax shall be at the rate of two percent of the invoice price charged by the wholesaler to a retail dispensary. Where the wholesaler is the retail dispensary, such tax shall be at the rate of two percent of the price charged to the retail customer.

(d) Notwithstanding any other provision of law to the contrary, the taxes imposed by article twenty of this chapter shall not apply to any product subject to tax under this article.

§ 494. Registration and renewal. (a) Every wholesaler must file with the commissioner a properly completed application for a certificate of registration before engaging in business. In order to apply for such certificate of registration, such person must first be in possession of a valid license from the office of cannabis management. An application for a certificate of registration must be submitted electronically, on a form prescribed by the commissioner, and must be accompanied by a non-refundable application fee of six hundred dollars. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon such person ceasing to do business as specified in such certificate, or in the event that such business never commenced.

(b) The commissioner shall refuse to issue a certificate of registration to any applicant and shall revoke the certificate of registration of any such person who does not possess a valid license from the office of cannabis management. The commissioner may refuse to issue a certificate of registration to any applicant where such applicant: (1) has a past-due liability as that term is defined in section one hundred seventy-one-v of this chapter; (2) has had a certificate of registration under this article, a license from the office of cannabis management, or any license or registration provided for in this chapter revoked within one year from the date on which such application was filed; (3) has been convicted of a crime provided for in this chapter within one year from

the date on which such application was filed of the certificate's issuance; (4) willfully fails to file a report or return required by this article; (5) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false; or (6) willfully fails to collect or truthfully account for or pay over any tax imposed by this article.

(c) A certificate of registration shall be valid for the period specified thereon, unless earlier suspended or revoked. Upon the expiration of the term stated on a certificate of registration, such certificate shall be null and void.

(d) Every holder of a certificate of registration must notify the commissioner of changes to any of the information stated on the certificate, or of changes to any information contained in the application for the certificate of registration. Such notification must be made on or before the last day of the month in which a change occurs and must be made electronically on a form prescribed by the commissioner.

(e) Every holder of a certificate of registration under this article shall be required to reapply prior to such certificate's expiration, during a reapplication period established by the commissioner. Such reapplication period shall not occur more frequently than every two years. Such reapplication shall be subject to the same requirements and conditions, including grounds for refusal, as an initial application, including the payment of the application fee.

(f) Penalties. A person to whom adult-use cannabis products have been transferred or who sells adult-use cannabis products without a valid certificate of registration pursuant to subdivision (a) of this section shall be subject to a penalty of five hundred dollars for each month or part thereof during which such person continues to possess adult-use cannabis products that have been transferred to such person or who sells such products after the expiration of the first month after which such person operates without a valid certificate of registration, not to exceed ten thousand dollars in the aggregate.

§ 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on or before the twentieth date of the month, file with the commissioner a return on forms to be prescribed by the commissioner, showing the total weight of cannabis flower and cannabis trim subject to tax pursuant to subdivision (a) of section four hundred ninety-three of this article and the total amount of tax due thereon in the preceding calendar month, and the total amount of tax due under subdivisions (b) and (c) of such section on its sales to a retail dispensary during the preceding calendar month, along with such other information as the commissioner may require. Every person required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due for the period covered by such return. If a return is not filed when due, the tax shall be due on the day on which the return is required to be filed.

2. The wholesaler shall maintain such records in such form as the commissioner may require regarding such items as: where the wholesaler is not the cultivator, the weight of the cannabis flower and cannabis trim transferred to it by a cultivator or, where the wholesaler is the cultivator, the weight of such flower and trim produced by it; the geographic location of every retail dispensary to which it sold adult-use cannabis products; and any other record or information required by the commissioner. This information must be kept by such person for a period of three years after the return was filed.

(b) The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

(c) 1. 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, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the cannabis revenue fund established by section ninety-nine-ff of the state finance law. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds. The commissioner is authorized and directed to deduct from the registration fees under subdivision (a) of section four hundred ninety-four of this article, before deposit into the cannabis revenue fund designated by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect, and distribute the taxes imposed by this article.

2. Notwithstanding the foregoing, the commissioner shall certify to the comptroller the total amount of tax, penalty and interest received by him or her on account of the tax imposed by subdivision (c) of section four hundred ninety-three of this article in trust for and on account of each county in which a retail dispensary is located. On or before the twelfth day of each month, the comptroller, after reserving such refund fund, shall pay to the appropriate fiscal officer of each such county the taxes, penalties and interest received and certified by the commissioner for the preceding calendar month.

§ 496. Returns to be kept secret. (a) Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the content or any other information related to the business of the wholesaler contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, the office of cannabis management, or the commissioner in an action or proceeding involving the collection of tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding related to the regulation or taxation of adult-use cannabis products on behalf of officers to whom information shall have been supplied as provided in this section, in any of which

events the courts may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the office of cannabis management or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by the wholesaler under this article; nor to prohibit the delivery to such person or a duly authorized representative of such person, a certified copy of any return or report filed by such person pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all wholesalers purchasing and selling such products in the state, whether the number of such persons is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may in his or her discretion, permit the proper officer of any county entitled to receive any distribution of the monies received on account of the tax imposed by subdivision (c) of section four hundred ninety-three of this article, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

(b) The commissioner, in his or her discretion, may permit the appropriate officers of any other state that regulates or taxes cannabis or the duly authorized representatives of such commissioner or of any such officers, to inspect returns or reports made pursuant to this article, or may furnish to the commissioner or other officer, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply such commissioner or any such officers or such representatives with information relating to the business of a wholesaler making returns or reports hereunder solely for purposes of tax administration. The commissioner may refuse to supply information pursuant to this subdivision to the officers of any other state if the statutes of the state represented by such officers do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to the appropriate officers of any state that regulates or taxes cannabis, or the duly authorized representatives of such commissioner or of any such officers, unless such commissioner, officer, or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary,

who in turn shall be subject to the same restrictions as those hereby imposed upon such commissioner, officer or other representatives.

(c) 1. Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in the state for a period of five years thereafter.

2. For criminal penalties, see article thirty-seven of this chapter.

§ 38. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 3-b to read as follows:

(3-b) Adult-use cannabis products as defined by article twenty-C of this chapter.

§ 39. Section 1825 of the tax law, as amended by section 3 of part NNN of chapter 59 of the laws of 2018, is amended to read as follows:

§ 1825. Violation of secrecy provisions of the tax law.--Any person who violates the secrecy provisions of [~~subdivision (b) of section twenty-one, subdivision one of section two hundred two, subdivision eight of section two hundred eleven, subdivision (a) of section three hundred fourteen, subdivision one or two of section four hundred thirty-seven, section four hundred eighty-seven, subdivision one or two of section five hundred fourteen, subsection (e) of section six hundred ninety-seven, subsection (a) of section nine hundred ninety-four, subdivision (a) of section eleven hundred forty-six, section twelve hundred eighty-seven, section twelve hundred ninety-six, section twelve hundred ninety-nine-F, subdivision (a) of section fourteen hundred eighteen, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty-five of~~] this chapter, [~~and~~] or subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

§ 40. Section 12 of chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, is amended to read as follows:

§ 12. This act shall take effect immediately [~~and~~]; provided, however that sections one, three, five, six, seven-a, eight, nine, ten and eleven of this act shall expire and be deemed repealed seven years after such date; provided that the amendments to section 171-a of the tax law made by section seven of this act shall take effect on the same date and in the same manner as section 54 of part A of chapter 59 of the laws of 2014 takes effect and shall not expire and be deemed repealed; and provided, further, that the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section eleven of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.

§ 41. The office of cannabis management, in consultation with the division of the budget, the department of taxation and finance, the department of health, office of alcoholism and substance abuse services, office of mental health, New York state police and the division of criminal justice services, shall conduct a study of the effectiveness of this act. Such study shall examine all aspects of this act, including economic and fiscal impacts, the impact on the public health and safety of New York residents and the progress made in achieving social justice goals and toward eliminating the illegal market for cannabis products in New York. The office shall make recommendations regarding the appropriate level of taxation of adult-use cannabis, as well as changes, if any, necessary to improve and protect the public health and safety of New Yorkers. Such study shall be conducted two years after the effective

date of this act and shall be presented to the governor, the majority leader of the senate and the speaker of the assembly, no later than October 1, 2022.

§ 42. Section 102 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

8. No alcoholic beverage retail licensee shall sell cannabis, nor have or possess a license or permit to sell cannabis, on the same premises where alcoholic beverages are sold.

§ 43. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the general obligations law, as added by chapter 406 of the laws of 2000, are amended to read as follows:

1. "Illegal drug" means any controlled substance [~~or marijuana~~] the possession of which is an offense under the public health law or the penal law.

4. "Grade one violation" means possession of one-quarter ounce or more, but less than four ounces, or distribution of less than one ounce of an illegal drug [~~other than marijuana, or possession of one pound or twenty-five plants or more, but less than four pounds or fifty plants, or distribution of less than one pound of marijuana~~].

5. "Grade two violation" means possession of four ounces or more, but less than eight ounces, or distribution of one ounce or more, but less than two ounces, of an illegal drug [~~other than marijuana, or possession of four pounds or more or fifty plants or distribution of more than one pound but less than ten pounds of marijuana~~].

6. "Grade three violation" means possession of eight ounces or more, but less than sixteen ounces, or distribution of two ounces or more, but less than four ounces, of a specified illegal drug [~~or possession of eight pounds or more or seventy-five plants or more, but less than sixteen pounds or one hundred plants, or distribution of more than five pounds but less than ten pounds of marijuana~~].

7. "Grade four violation" means possession of sixteen ounces or more or distribution of four ounces or more of a specified illegal drug [~~or possession of sixteen pounds or more or one hundred plants or more or distribution of ten pounds or more of marijuana~~].

13. "Drug trafficker" means a person convicted of a class A or class B felony controlled substance [~~or marijuana offense~~] who, in connection with the criminal conduct for which he or she stands convicted, possessed, distributed, sold or conspired to sell a controlled substance [~~or marijuana~~] which, by virtue of its quantity, the person's prominent role in the enterprise responsible for the sale or distribution of such controlled substance and other circumstances related to such criminal conduct indicate that such person's criminal possession, sale or conspiracy to sell such substance was not an isolated occurrence and was part of an ongoing pattern of criminal activity from which such person derived substantial income or resources and in which such person played a leadership role.

§ 44. Paragraph (g) of subdivision 1 of section 488 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, is amended to read as follows:

(g) "Unlawful use or administration of a controlled substance," which shall mean any administration by a custodian to a service recipient of: a controlled substance as defined by article thirty-three of the public health law, without a prescription; or other medication not approved for any use by the federal food and drug administration**, except for the administration of medical cannabis when such administration is in accordance with article three of the cannabis law and any regulations**

promulgated thereunder as well as the rules, regulations, policies, or procedures of the state oversight agency or agencies governing such custodians. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by article thirty-three of the public health law, at the workplace or while on duty.

§ 45. Paragraphs (e) and (f) of subdivision 1 of section 490 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, are amended and a new paragraph (g) is added to read as follows:

(e) information regarding individual reportable incidents, incident patterns and trends, and patterns and trends in the reporting and response to reportable incidents is shared, consistent with applicable law, with the justice center, in the form and manner required by the justice center and, for facilities or provider agencies that are not state operated, with the applicable state oversight agency which shall provide such information to the justice center; [~~and~~]

(f) incident review committees are established; provided, however, that the regulations may authorize an exemption from this requirement, when appropriate, based on the size of the facility or provider agency or other relevant factors. Such committees shall be composed of members of the governing body of the facility or provider agency and other persons identified by the director of the facility or provider agency, including some members of the following: direct support staff, licensed health care practitioners, service recipients and representatives of family, consumer and other advocacy organizations, but not the director of the facility or provider agency. Such committee shall meet regularly to: (i) review the timeliness, thoroughness and appropriateness of the facility or provider agency's responses to reportable incidents; (ii) recommend additional opportunities for improvement to the director of the facility or provider agency, if appropriate; (iii) review incident trends and patterns concerning reportable incidents; and (iv) make recommendations to the director of the facility or provider agency to assist in reducing reportable incidents. Members of the committee shall be trained in confidentiality laws and regulations, and shall comply with section seventy-four of the public officers law[~~.~~]; and

(g) safe storage, administration, and diversion prevention policies regarding controlled substances and medical marihuana.

§ 46. Subdivision 1 of section 505 of the agriculture and markets law, as added by chapter 524 of the laws of 2014, is amended to read as follows:

1. "Industrial hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

§ 47. Section 506 of the agriculture and markets law, as amended by section 1 of part OO of chapter 58 of the laws of 2017, is amended to read as follows:

§ 506. Growth, sale, distribution, transportation and processing of industrial hemp and products derived from such hemp permitted. [~~Notwithstanding any provision of law to the contrary, industrial~~] 1. Industrial hemp and products derived from such hemp are agricultural products which may be grown, produced [~~and~~], possessed [~~in the state, and~~], sold, distributed, transported [~~or~~] and/or processed [~~either~~] in [~~or out of~~] state [~~as part of agricultural pilot programs pursuant to authorization under federal law and the provisions of this article~~] pursuant to

authorization under federal law, the provisions of this article and/or the the cannabis law. [~~Notwithstanding any provision of law to the contrary restricting the growing or cultivating, sale, distribution, transportation or processing of industrial hemp and products derived from such hemp, and subject to authorization under federal law, the~~]

2. The commissioner may authorize the growing or cultivating of industrial hemp as part of agricultural pilot programs conducted by the department and/or an institution of higher education to study the growth and cultivation, sale, distribution, transportation and processing of such hemp and products derived from such hemp provided that the sites and programs used for growing or cultivating industrial hemp are certified by, and registered with, the department.

3. In addition to the department's licensing authority hereinafter provided in this article, the office of cannabis management shall license and regulate the growth, extraction, processing and/or manufacturing of hemp for derivatives, extracts, cannabinoids, isomers, acids, salts and salts or isomers and/or hemp products for human or animal consumption or use (except for those food and/or food ingredients that are generally recognized as safe).

4. Nothing in this section shall limit the jurisdiction of the department under any other article of the agriculture and markets law.

§ 48. Section 507 of the agriculture and markets law is REPEALED and a new section 507 is added to read as follows:

§ 507. Licensing; fees. 1. No person shall: (a) grow industrial hemp in the state and/or sell or distribute industrial hemp grown in the state unless licensed biennially by the commissioner or (b) grow, process and/or produce industrial hemp and products derived from hemp in the state or sell or distribute unless authorized by the commissioner as part of an agricultural research pilot program established under this article.

2. Application for a license to grow industrial hemp shall be made upon a form prescribed by the commissioner, accompanied by a non-refundable application fee of five hundred dollars.

3. The applicant shall furnish evidence of his or her good character, experience and competency, that the applicant has adequate facilities, equipment, process controls, testing capability and security to grow hemp.

4. Growers who intend to cultivate hemp for cannabinoids shall also be required to obtain a license from the office of cannabis management.

5. A renewal application shall be submitted to the commissioner at least thirty days prior to the commencement of the next license period.

§ 49. Section 508 of the agriculture and markets law is REPEALED and a new section 508 is added to read as follows:

§ 508. Compliance action plan. If the commissioner determines, after notice and an opportunity for hearing, that a licensee has negligently violated a provision of this article, that licensee shall be required to comply with a corrective action plan established by the commissioner to correct the violation by a reasonable date and to periodically report to the commissioner with respect to the licensee's compliance with this article for a period of no less than the next two calendar years following the commencement date of the compliance action plan. The provisions of this section shall not be applicable to research partners conducting hemp research pursuant to a research partner agreement, the terms of which shall control.

§ 50. Section 509 of the agriculture and markets law is REPEALED and a new section 509 is added to read as follows:

§ 509. Granting, suspending or revoking licenses. The commissioner may decline to grant a new license, may decline to renew a license, may suspend or revoke a license already granted after due notice and opportunity for hearing whenever he or she finds that:

(1) any statement contained in an application for an applicant or licensee is or was false or misleading;

(2) the applicant or licensee does not have good character, the required experience and/or competency, adequate facilities, equipment, process controls, testing capability and/or security to produce hemp or products derived from hemp;

(3) the applicant or licensee has failed or refused to produce any records or provide any information demanded by the commissioner reasonably related to the administration and enforcement of this article; or

(4) the applicant or licensee, or any officer, director, partner, holder of ten percent of the voting stock, or any other person exercising any position of management or control has failed to comply with any of the provisions of this article or rules and regulations promulgated pursuant thereto.

§ 51. Section 510 of the agriculture and markets law is REPEALED and a new section 510 is added to read as follows:

§ 510. Regulations. The commissioner may develop regulations consistent with the provisions of this article for the growing and cultivation, sale, distribution, and transportation of industrial hemp grown in the state, including:

(a) the authorization or licensing of any person who may: acquire or possess hemp plants or seeds; grow or cultivate hemp plants; and/or sell, purchase, distribute, or transport such plants, plant parts, or seeds;

(b) maintaining relevant information regarding land on which industrial hemp is produced within the state, including the legal description of the land, for a period of not less than three calendar years;

(c) the procedure for testing of industrial hemp produced in the state for delta-9 tetrahydrocannabinol levels, using post decarboxylation or other similarly reliable methods;

(d) the procedure for effective disposal of industrial hemp plants or products derived from hemp that are produced in violation of this article;

(e) a procedure for conducting at least a random sample of industrial hemp producers to verify that hemp is not produced in violation of this article;

(f) any required security measures; and

(g) such other and further regulation as the commissioner deems appropriate or necessary.

§ 52. Section 511 of the agriculture and markets law is REPEALED and a new section 511 is added to read as follows:

§ 511. Prohibitions. Except as authorized by state law, and regulations promulgated thereunder, the growth, cultivation, processing, sale, and/or distribution of industrial hemp is prohibited.

§ 53. Section 512 of the agriculture and markets law is REPEALED and a new section 512 is added to read as follows:

§ 512. Industrial hemp data collection and best farming practices. The commissioner shall have the power to collect and publish data and research concerning, among other things, the growth, cultivation, production and processing methods of industrial hemp and products derived from industrial hemp and work with the cornell cooperative extension to promote best farming practices for industrial hemp which

are compatible with state water quality and other environmental objectives.

§ 54. Sections 513 and 514 of the agriculture and markets law are REPEALED and a new section 513 is added to read as follows:

§ 513. Access to criminal history information through the division of criminal justice services. In connection with the administration of this article, the commissioner is authorized to request, receive and review criminal history information through the division of criminal justice services (division) with respect to any person seeking a license or authorization to undertake a hemp pilot project. At the commissioner's request, each researcher, principal and/or officer of the applicant shall submit to the department his or her fingerprints in such form and in such manner as specified by the division, for the purpose of conducting a criminal history search and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the prescribed processing fees for the cost of the division's full search and retain procedures and a national criminal history record check. The commissioner, or his or her designee, shall submit such fingerprints and the processing fee to the division. The division shall forward to the commissioner a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division of criminal justice services pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check. If additional copies of fingerprints are required, the applicant shall furnish them upon request.

§ 55. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

§ 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; definitions.

The following definitions are applicable to this article:

1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis as defined in [~~subdivision eight of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law.

2. "Certification" means a certification, made under section [~~thirty-three hundred sixty-one of the public health law~~] thirty of the cannabis law.

§ 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limitations.

The provisions of this article shall not apply to:

1. a practitioner authorized to issue a certification who acted in good faith in the lawful course of his or her profession; or

2. a registered organization as that term is defined in [~~subdivision nine of section thirty-three hundred sixty of the public health law~~] section thirty-four of the cannabis law who acted in good faith in the lawful course of the practice of pharmacy; or

3. a person who acted in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition.

§ 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] cannabis in the first degree when he or she is a practitioner, as that term

is defined in [~~subdivision twelve of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law, who issues a certification with knowledge of reasonable grounds to know that (i) the recipient has no medical need for it, or (ii) it is for a purpose other than to treat a serious condition as defined in [~~subdivision seven of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the first degree is a class E felony.

§ 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the second degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] cannabis in the second degree when he or she sells, trades, delivers, or otherwise provides medical [~~marihuana~~] cannabis to another with knowledge or reasonable grounds to know that the recipient is not registered under [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the second degree is a class B misdemeanor.

§ 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

A person is guilty of criminal retention of medical [~~marihuana~~] cannabis when, being a certified patient or designated caregiver, as those terms are defined in [~~subdivisions three and five of section thirty-three hundred sixty of the public health law, respectively~~] section three of the cannabis law, he or she knowingly obtains, possesses, stores or maintains an amount of [~~marihuana~~] cannabis in excess of the amount he or she is authorized to possess under the provisions of [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal retention of medical [~~marihuana~~] cannabis is a class A misdemeanor.

§ 56. Section 220.78 of the penal law, as added by chapter 154 of the laws of 2011, is amended to read as follows:

§ 220.78 Witness or victim of drug or alcohol overdose.

1. A person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency shall not be charged or prosecuted for a controlled substance offense under article two hundred twenty or a [~~marihuana~~] cannabis offense under article two hundred twenty-one of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

2. A person who is experiencing a drug or alcohol overdose or other life threatening medical emergency and, in good faith, seeks health care for himself or herself or is the subject of such a good faith request for health care, shall not be charged or prosecuted for a controlled substance offense under this article or a [~~marihuana~~] cannabis offense under article two hundred twenty-one of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage

control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any substance, [~~marihuana~~] **cannabis**, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

3. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Drug or alcohol overdose" or "overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; provided that a patient's condition shall be deemed to be a drug or alcohol overdose if a prudent layperson, possessing an average knowledge of medicine and health, could reasonably believe that the condition is in fact a drug or alcohol overdose and (except as to death) requires health care.

(b) "Health care" means the professional services provided to a person experiencing a drug or alcohol overdose by a health care professional licensed, registered or certified under title eight of the education law or article thirty of the public health law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services for a person experiencing a drug or alcohol overdose.

4. It shall be an affirmative defense to a criminal sale controlled substance offense under this article or a criminal sale of [~~marihuana~~] **cannabis** offense under article two hundred twenty-one of this title, not covered by subdivision one or two of this section, with respect to any controlled substance or [~~marihuana~~] **cannabis** which was obtained as a result of such seeking or receiving of health care, that:

(a) the defendant, in good faith, seeks health care for someone or for him or herself who is experiencing a drug or alcohol overdose or other life threatening medical emergency; and

(b) the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under this article.

5. Nothing in this section shall be construed to bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the bar to prosecution or for the affirmative defense; nor with regard to other crimes committed by a person who otherwise qualifies under this section; nor shall anything in this section be construed to bar any seizure pursuant to law, including but not limited to pursuant to section thirty-three hundred eighty-seven of the public health law.

6. The bar to prosecution described in subdivisions one and two of this section shall not apply to the prosecution of a class A-I felony under this article, and the affirmative defense described in subdivision four of this section shall not apply to the prosecution of a class A-I or A-II felony under this article.

§ 57. Subdivision 1 of section 260.20 of the penal law, as amended by chapter 362 of the laws of 1992, is amended as follows:

1. He knowingly permits a child less than eighteen years old to enter or remain in or upon a place, premises or establishment where sexual activity as defined by article one hundred thirty, two hundred thirty or two hundred sixty-three of this [~~chapter~~] **part** or activity involving controlled substances as defined by article two hundred twenty of this [~~chapter or involving marihuana as defined by article two hundred twen-~~

~~ty-one of this chapter~~] part is maintained or conducted, and he knows or has reason to know that such activity is being maintained or conducted; or

§ 58. Section 89-h of the state finance law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 89-h. Medical [~~marihuana~~] cannabis trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "medical [~~marihuana~~] cannabis trust fund."

2. The medical [~~marihuana~~] cannabis trust fund shall consist of all moneys required to be deposited in the medical [~~marihuana~~] cannabis trust fund pursuant to the provisions of section four hundred ninety of the tax law.

3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be kept separate and shall not be commingled with any other moneys in the custody of the commissioner of taxation and finance and the state comptroller.

4. The moneys of the medical [~~marihuana~~] cannabis trust fund, following appropriation by the legislature, shall be allocated upon a certificate of approval of availability by the director of the budget as follows: (a) Twenty-two and five-tenths percent of the monies shall be transferred to the counties in New York state in which the medical [~~marihuana~~] cannabis was manufactured and allocated in proportion to the gross sales originating from medical [~~marihuana~~] cannabis manufactured in each such county; (b) twenty-two and five-tenths percent of the moneys shall be transferred to the counties in New York state in which the medical [~~marihuana~~] cannabis was dispensed and allocated in proportion to the gross sales occurring in each such county; (c) five percent of the monies shall be transferred to the office of alcoholism and substance abuse services, which shall use that revenue for additional drug abuse prevention, counseling and treatment services; and (d) five percent of the revenue received by the department shall be transferred to the division of criminal justice services, which shall use that revenue for a program of discretionary grants to state and local law enforcement agencies that demonstrate a need relating to [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law; said grants could be used for personnel costs of state and local law enforcement agencies. For purposes of this subdivision, the city of New York shall be deemed to be a county.

§ 59. Intentionally omitted.

§ 60. The state finance law is amended by adding a new section 99-ff to read as follows:

§ 99-ff. New York state cannabis revenue fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "New York state cannabis revenue fund" (the "fund").

2. Monies in the fund shall be kept separate from and shall not be commingled with any other monies in the custody of the comptroller or the commissioner of taxation and finance. Provided, however that any monies of the fund not required for immediate use may, at the discretion of the comptroller, in consultation with the director of the budget, be invested by the comptroller in obligations of the United States or the state. The proceeds of any such investment shall be retained by the fund as assets to be used for purposes of the fund.

3. Except as set forth in subdivisions two and four of this section, monies from the fund shall not be used to make payments for any purpose

other than the purposes set forth in subdivisions two and four of this section.

4. The "New York state cannabis revenue fund" shall consist of monies received by the commissioner of taxation and finance pursuant to subdivisions (a) and (b) of section four hundred ninety-three of the tax law and all other monies credited or transferred thereto from any other fund or source. Monies of such fund shall be expended for the following purposes: administration of the regulated cannabis program, data gathering, monitoring and reporting, the governor's traffic safety committee, small business development and loans, substance abuse, harm reduction and mental health treatment and prevention, public health education and intervention, research on cannabis uses and applications, program evaluation and improvements, and any other identified purpose recommended by the executive director of the office of cannabis management and approved by the director of the budget.

§ 61. Subdivision 2 of section 3371 of the public health law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

2. The prescription monitoring program registry may be accessed, under such terms and conditions as are established by the department for purposes of maintaining the security and confidentiality of the information contained in the registry, by:

(a) a practitioner, or a designee authorized by such practitioner pursuant to paragraph (b) of subdivision two of section thirty-three hundred forty-three-a or section thirty-three hundred sixty-one of this article, for the purposes of: (i) informing the practitioner that a patient may be under treatment with a controlled substance by another practitioner; (ii) providing the practitioner with notifications of controlled substance activity as deemed relevant by the department, including but not limited to a notification made available on a monthly or other periodic basis through the registry of controlled substances activity pertaining to his or her patient; (iii) allowing the practitioner, through consultation of the prescription monitoring program registry, to review his or her patient's controlled substances history as required by section thirty-three hundred forty-three-a [~~or section thirty-three hundred sixty-one~~] of this article; and (iv) providing to his or her patient, or person authorized pursuant to paragraph (j) of subdivision one of this section, upon request, a copy of such patient's controlled substance history as is available to the practitioner through the prescription monitoring program registry; or

(b) a pharmacist, pharmacy intern or other designee authorized by the pharmacist pursuant to paragraph (b) of subdivision three of section thirty-three hundred forty-three-a of this article, for the purposes of: (i) consulting the prescription monitoring program registry to review the controlled substances history of an individual for whom one or more prescriptions for controlled substances or certifications for marihuana is presented to the pharmacist, pursuant to section thirty-three hundred forty-three-a of this article; and (ii) receiving from the department such notifications of controlled substance activity as are made available by the department; or

(c) an individual employed by a registered organization for the purpose of consulting the prescription monitoring program registry to review the controlled substances history of an individual for whom one or more certifications for [~~marihuana~~] cannabis is presented to that registered organization[~~, pursuant to section thirty-three hundred sixty-four of this article~~]. Unless otherwise authorized by this arti-

cle, an individual employed by a registered organization will be provided access to the prescription monitoring program in the sole discretion of the commissioner.

§ 62. Subdivision 3 of section 853 of the general business law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

3. This article shall not apply to any sale, furnishing or possession which is for a lawful purpose under [~~title five-A of article thirty-three of the public health law~~] **the cannabis law**.

§ 63. Subdivision 5 of section 410.91 of the criminal procedure law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, criminal diversion of medical [~~marihuana~~] **cannabis** in the first degree as defined in section 179.10 or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance [~~or marihuana~~] **cannabis** felony offense as defined in article two hundred twenty or two hundred twenty-one.

§ 63-a. Subdivision 5 of section 410.91 of the criminal procedure law, as amended by section 8 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree

as defined in section 170.60, or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance or [~~marihuana~~] cannabis felony offense as defined in article two hundred twenty or two hundred twenty-one.

§ 63-b. The criminal procedure law is amended by adding a new section 440.46-a to read as follows:

§ 440.46-a motion for resentence; persons convicted of certain marihuana offenses. 1. A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense on and after the effective date of this section had this section been in effect at the time of his or her conviction may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with article two hundred twenty-one of the penal law. 2. Upon receiving a motion under subdivision one of this section the court shall presume the movant satisfies the criteria in subdivision one of this section unless the party opposing the motion proves by clear and convincing evidence that the movant does not satisfy the criteria. If the movant satisfies the criteria in subdivision one of this section, the court shall grant the motion to vacate the sentence or to resentence because it is legally invalid. In exercising its discretion, the court may consider, but shall not be limited to, the following: a) the movant's criminal conviction history, including the type of crimes committed, the extent of injury to victims, the length of prior prison commitments, and the remoteness of the crimes. (b) the movant's disciplinary record and record of rehabilitation while incarcerated. 3. A person who is serving a sentence and resentenced pursuant to subdivision two of this section shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under section 60.04 of the penal law or post-release supervision under section 70.45 of the penal law by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody. 4. Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement. 5. A person who has completed his or her sentence for a conviction under the former article two hundred twenty-one of the penal law, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense on and after the effective date of this section had this section been in effect at the time of his or her conviction, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction, in accordance with article two hundred twenty-one of the penal law:(a) dismissed because the prior conviction is now legally invalid and sealed in accordance with section 160.50 of this

chapter;(b) redesignated (or "reclassified") as a violation and sealed in accordance with section 160.50 of this chapter; or(c) redesignated (reclassified) as a misdemeanor. 6. The court shall presume the petitioner satisfies the criteria in subdivision five unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision five. Once the applicant satisfies the criteria in subdivision five, the court shall redesignate (or "reclassify") the conviction as a misdemeanor, redesignate (reclassify) the conviction as a violation and seal the conviction, or dismiss and seal the conviction as legally invalid under this section had this section been in effect at the time of his or her conviction. 7. Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision five of this section. 8. Any felony conviction that is vacated and resentenced under subdivision two or designated as a misdemeanor or violation under subdivision six of this section shall be considered a misdemeanor or violation for all purposes. Any misdemeanor conviction that is vacated and resentenced under subdivision two of this section or designated as a violation under subdivision six of this section shall be considered a violation for all purposes. 9. If the court that originally sentenced the movant is not available, the presiding judge shall designate another judge to rule on the petition or application. 10. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant. 11. Nothing in this and related sections is intended to diminish or abrogate the finality of judgements in any case not falling within the purview of this section. 12. The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under section five hundred one-e of the executive law if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under this section had this section been in effect at the time of his or her conviction. 13. The office of court administration shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section no later than sixty days following the effective date of this section.

§ 64. This act shall take effect immediately; provided, however that sections thirty-seven and thirty-eight of this act shall take effect on April 1, 2020, and shall apply on and after such date: (a) to the cultivation of cannabis flower and cannabis trim transferred by a cultivator who is not a wholesaler; (b) to the cultivation of cannabis flower and cannabis trim sold or transferred to a retail dispensary by a cultivator who is a wholesaler; and (c) to the sale or transfer of adult use cannabis products to a retail dispensary; provided, further, that the amendments to article 179 of the penal law made by section fifty-five of this act shall not affect the repeal of such article and shall be deemed to be repealed therewith; provided further, that the amendments to section 89-h of the state finance law made by section fifty-eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided further, that the amendments to section 221.00 of the penal law made by section fifteen of this act shall be subject to the expiration of such section when upon such date the provisions of section fifteen-a of this act shall take effect; provided, however, that the amendments to subdivision 2 of section 3371 of the public health law made by section sixty-one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; provided further, that the amendments to subdivision 3 of section 853 of the

general business law made by section sixty-two of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith; and provided further, that the amendments to subdivision 5 of section 410.91 of the penal law made by section sixty-three of this act shall be subject to the expiration and reversion of such subdivision when upon such date the provisions of section sixty-three-a of this act shall take effect.

PART WW

Section 1. Section 1166-a of the tax law, as added by section 1 of part F of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1166-a. Special supplemental tax on passenger car rentals **within the metropolitan commuter transportation district**. (a) In addition to the tax imposed under section eleven hundred sixty of this article and in addition to any tax imposed under any other article of this chapter, there is hereby imposed and there shall be paid a tax at the rate of five percent upon the receipts from every rental of a passenger car which is a retail sale of such passenger car within the metropolitan commuter transportation district as defined in [~~subdivision~~] **subsection** (a) of section eight hundred of this chapter.

(b) Except to the extent that a passenger car rental described in subdivision (a) of this section**, or section eleven hundred sixty-six-b of this article,** has already been or will be subject to the tax imposed under such subdivision **or section** and except as otherwise exempted under this article, there is hereby imposed on every person and there shall be paid a use tax for the use within the metropolitan commuter transportation district as defined in [~~subdivision~~] **subsection** (a) of section eight hundred of this chapter; of any passenger car rented by the user [~~which~~] **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 [~~paragraph~~] **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.

§ 2. The tax law is amended by adding a new section 1166-b to read as follows:

§ 1166-b. Special supplemental tax on passenger car rentals outside of the metropolitan commuter transportation district. (a) In addition to the tax imposed under section eleven hundred sixty of this article and in addition to any tax imposed under any other article of this chapter, there is hereby imposed and there shall be paid a tax at the rate of five percent upon the receipts from every rental of a passenger car that is not subject to the tax described in section eleven hundred sixty-six-a of this article, but which is a retail sale of such passenger car within the state.

(b) Except to the extent that a passenger car rental described in subdivision (a) of this section or in section eleven hundred sixty-six-a of this article, has already been subject to the tax imposed under such subdivision or section, and except as otherwise exempted under this article, there is hereby imposed on every person and there 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[~~,~~]: (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

the public health law. The term "opioid" shall not mean buprenorphine, methadone, or morphine.

(b) "Unit" shall mean a single finished dosage form of an opioid, such as a pill, tablet, capsule, suppository, transdermal patch, buccal film, milliliter of liquid, milligram of topical preparation, or any other form.

(c) "Strength per unit" shall mean the amount of opioid in a unit, as measured by weight, volume, concentration or other metric.

(d) "Morphine milligram equivalent conversion factor" shall mean that reference standard of a particular opioid as it relates in potency to morphine as determined by the commissioner of health.

(e) "Morphine milligram equivalent" shall mean a unit multiplied by its strength per unit multiplied by the morphine milligram equivalent conversion factor.

(f) "Registrant" shall mean any person, firm, corporation or association required to be registered with the education department as a wholesaler, manufacturer, or outsourcing facility pursuant to section sixty-eight hundred eight or section sixty-eight hundred eight-b of the education law, as well as any person, firm, corporation or association that would be required to be registered with the education department as a wholesaler, manufacturer, or outsourcing facility pursuant to such section sixty-eight hundred eight-b but for the exception in subdivision two of such section; and any person, firm, corporation or association required to be registered with the health department as a manufacturer or distributor of a controlled substance pursuant to section thirty-three hundred ten of the public health law.

(g) "Wholesale acquisition cost" shall mean the manufacturer's list price for an opioid unit to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug or biological pricing data.

(h) "Sale" shall mean any transfer of title to an opioid for a consideration where actual or constructive possession of such opioid is transferred to the purchaser or its designee in this state. A sale shall not include the dispensing of an opioid pursuant to a prescription to an ultimate consumer.

§ 498. Imposition of excise tax. (a) There is hereby imposed an excise tax on the first sale of any opioid in the state at the following rates: (1) a quarter of a cent per morphine milligram equivalent where the wholesale acquisition cost is less than fifty cents, or (2) one and one-half cents per morphine milligram equivalent where the wholesale acquisition cost is fifty cents or more. The tax imposed by this article shall be charged against and paid by the registrant making such first sale, and shall accrue at the time of such sale. The economic incidence of the tax imposed by this article may be passed to a purchaser. For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that any sale of an opioid in this state by a registrant is the first sale of such in the state until the contrary is established, and the burden of proving that any sale is not the first sale in the state shall be upon the registrant.

(b) Every registrant liable for the tax imposed by this article shall file with the commissioner a return on forms to be prescribed by the commissioner showing the total morphine milligram equivalent and wholesale acquisition costs of such opioids that are subject to the tax

imposed by this article, the amount of tax due thereon, and such further information as the commissioner may require. Such returns shall be filed for quarterly periods ending on the last day of March, June, September and December of each year. Each return shall be filed within twenty days after the end of such quarterly period and shall cover all opioid sales in the state made in the prior quarter, except that the first return required to be filed pursuant to this section shall be due on January twentieth, two thousand twenty, and shall cover all opioid sales occurring in the period between the effective date of this article and December thirty-first, two thousand nineteen. Every registrant required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due for the period covered by such return. If a return is not filed when due, the tax shall be due the day on which the return is required to be filed. The commissioner may require that the returns and payments required by this section be filed or paid electronically.

(c) Where a sale of an opioid by a registrant has been cancelled by the purchaser and tax under this article has previously been paid by the registrant, the commissioner shall allow a credit or refund of such tax on a return for a later period within the limitations period for claiming a credit or refund as prescribed by section one thousand eighty-seven of this chapter.

(d) All sales slips, invoices, receipts, or other statements or memoranda of sale from any sale or purchase of opioids by registrants must be retained for a period of six years after the due date of the return to which they relate, unless the commissioner provides for a different retention period by rule or regulation. Such records must be sufficient to determine the number of units transferred along with the morphine milligram equivalent of the units transferred, and otherwise be suitable to determine the correct amount of tax due. Such records must also record either (1) the address from which the units are shipped or delivered, along with the address to which the units are shipped or delivered, or (2) the place at which actual physical possession of the units is transferred. Such records shall be produced upon demand by the commissioner.

(e) The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this article and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article twenty-seven is either inconsistent with a provision of this article or is not relevant to this article.

(f) The commissioners of education and health shall cooperate with the commissioner in administering this tax, including sharing with the commissioner pertinent information about registrants upon the request of the commissioner.

(g) Each registrant shall provide a report to the department of health detailing all opioids sold by such registrant in the state of New York. Such report shall include:

(i) the registrant's name, address, phone number, federal Drug Enforcement Agency (DEA) registration number, education department registration number, and controlled substance license number issued by the department of health, if applicable;

(ii) the name, address and DEA registration number of the entity to whom the opioid was sold;

(iii) the date of the sale of the opioid;

(iv) the gross receipt total, in dollars, for each opioid sold;
(v) the name and National Drug Code of the opioid sold;
(vi) the number of containers and the strength and metric quantity of controlled substance in each container of the opioid sold;
(vii) the total number of morphine milligram equivalents sold; and
(viii) any other elements as deemed necessary by the commissioner of health.

Such information shall be reported annually in such form as defined by the commissioner of health and shall not be subject to the provisions of section four hundred ninety-nine of this article.

§ 499. Returns to be secret. (a) Except in accordance with a proper judicial order or as otherwise provided for by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any person engaged or retained by such department on an independent contract basis or any other person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the contents or any other information relating to the business of a registrant contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, the state department of health, the state department of education or the commissioner in an action or proceeding under the provisions of this chapter or on behalf of the state or the commissioner in any other action or proceeding involving the collection of a tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article, or from providing any information contained in any such return or report, by or to a duly authorized officer or employee of the state department of health or the state department of education; nor to prohibit the inspection or delivery of a certified copy of any return or report filed under this article, or the provision of any information contained therein, by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; nor to prohibit the commissioner from providing or certifying to the division of budget or the comptroller the total number of returns or reports filed under this article in any reporting period and the total collections received therefrom; nor to prohibit the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a registrant or other person under this article; nor to prohibit the delivery to a registrant, or a duly authorized representative of such registrant, a certified copy of any return or report filed by such registrant pursuant to this article, nor to prohibit the

publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof.

(b)(1) Any officer or employee of the state who willfully violates the provisions of subdivision (a) of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(2) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 2. Section 1825 of the tax law, as amended by section 3 of part NNN of chapter 59 of the laws of 2018, is amended to read as follows:

§ 1825. Violation of secrecy provisions of the tax law.--Any person who violates the secrecy provisions of [~~subdivision (b) of section twenty-one, subdivision one of section two hundred two, subdivision eight of section two hundred eleven, subdivision (a) of section three hundred fourteen, subdivision one or two of section four hundred thirty-seven, section four hundred eighty-seven, subdivision one or two of section five hundred fourteen, subsection (e) of section six hundred ninety-seven, subsection (a) of section nine hundred ninety-four, subdivision (a) of section eleven hundred forty-six, section twelve hundred eighty-seven, section twelve hundred ninety-six, section twelve hundred ninety-nine-F, subdivision (a) of section fourteen hundred eighteen, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty-five of~~] this chapter[~~, and~~] or subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

§ 3. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part MM of chapter 59 of the laws of 2018, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles.

The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally

withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 4. Subdivision 1 of section 171-a of the tax law, as amended by section 4 of part MM of chapter 59 of the laws of 2018, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), **twenty-D,** twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount

of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 5. This act shall take effect July 1, 2019; provided, however, that the amendments to subdivision 1 of section 171-a of the tax law made by section three of this act shall not affect the expiration of such subdivision and shall expire therewith, when upon such date the provisions of section four of this act shall take effect.

§ 2. 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.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through XX of this act shall be as specifically set forth in the last section of such Parts.