

STATE OF NEW YORK

1527

2019-2020 Regular Sessions

IN SENATE

January 15, 2019

Introduced by Sens. KRUEGER, BAILEY, COMRIE, GIANARIS, HOYLMAN, MONTGOMERY, PARKER, RAMOS, RIVERA, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the public health law, in relation to the description of marihuana, and the growing of and use of marihuana by persons twenty-one years of age or older; to amend the civil practice law and rules, in relation to removing certain references to marihuana relating to forfeiture actions; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of marihuana; to amend the penal law, in relation to the qualification of certain offenses involving marihuana and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of marihuana; to amend the public health law in relation to the definition of smoking; to amend the alcoholic beverage control law, in relation to providing for the licensure of persons authorized to produce, process and sell marihuana; to amend the state finance law, in relation to establishing the New York state marihuana revenue fund, the New York state drug treatment education fund and the New York state community grants reinvestment fund; to amend the tax law, in relation to providing for the levying of an excise tax on certain sales of marihuana; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law, the vehicle and traffic law, and the family court act in relation to making conforming changes; to amend the alcoholic beverage control law, in relation to alcohol or substance use disorder training awareness programs; to amend the state finance law, in relation to a revolving loan fund; to repeal sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 and 221.40 of the penal law relating to the criminal possession and sale of marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal section 150.75 of the criminal procedure law relating to appearance

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

LBD07592-01-9

tickets for certain marihuana offenses; and making an appropriation therefor

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

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

3 § 2. Legislative findings and intent. The legislature finds that
4 existing marihuana laws have not been beneficial to the welfare of the
5 general public. Existing laws have been ineffective in reducing or curb-
6 ing marihuana use and have instead resulted in devastating collateral
7 consequences that inhibit an otherwise law-abiding citizen's ability to
8 access housing, employment opportunities, and other vital services.
9 Existing laws have also created an illicit market which represents a
10 threat to public health and reduces the ability of the legislature to
11 deter the accessing of marihuana by minors. Existing marihuana laws have
12 also disproportionately impacted African-American and Latino communi-
13 ties.

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

21 Nothing in this act is intended to limit the authority of any district
22 government agency or office or employers to enact and enforce policies
23 pertaining to marihuana in the workplace, to allow driving under the
24 influence of marihuana, to allow individuals to engage in conduct that
25 endangers others, to allow smoking marihuana in any location where smok-
26 ing tobacco is prohibited, or to require any individual to engage in any
27 conduct that violates federal law or to exempt anyone from any require-
28 ment of federal law or pose any obstacle to the federal enforcement of
29 federal law.

30 Nothing in this act is intended to limit any privileges or rights of a
31 medical marihuana patient or medical marihuana caregiver under the New
32 York Compassionate Care Act.

33 It is the intent of this act that no child shall be the subject of a
34 child neglect or abuse investigation or proceeding based solely on a
35 parent's alleged use of marihuana. A newborn child's positive toxicology
36 result for marihuana, is not sufficient on its own to support a finding
37 of child neglect or abuse. Enactment of this act shall provide suffi-
38 cient basis for New York state to favorably resolve open investigations
39 and to amend and seal individuals' family court records and records of
40 indicated child abuse or neglect reports currently in the statewide
41 central register of child abuse and maltreatment based solely on the use
42 of marihuana or where the reporter of suspected abuse or neglect was a
43 law enforcement agency or staff person and the report was based solely
44 upon the presence of a child during a marihuana-related arrest.

45 § 3. Section 3302 of the public health law, as added by chapter 878 of
46 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and
47 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,
48 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,
49 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

1 kinds. "Internet," as used in this article, also includes other
2 networks, whether private or public, used to transmit information by
3 electronic means.

4 ~~[35-]~~ 33. "By means of the internet" means any sale, delivery,
5 distribution, or dispensing of a controlled substance that uses the
6 internet, is initiated by use of the internet or causes the internet to
7 be used.

8 ~~[36-]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person
9 in the United States that sells, delivers or dispenses, or offers to
10 sell, deliver, or dispense, a controlled substance by means of the
11 internet.

12 ~~[37-]~~ 35. "Electronic prescription" means a prescription issued with
13 an electronic signature and transmitted by electronic means in accord-
14 ance with regulations of the commissioner and the commissioner of educa-
15 tion and consistent with federal requirements. A prescription generated
16 on an electronic system that is printed out or transmitted via facsimile
17 is not considered an electronic prescription and must be manually
18 signed.

19 ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-
20 trical, digital, magnetic, wireless, optical, electromagnetic or similar
21 capabilities. "Electronic" shall not include facsimile.

22 ~~[39-]~~ 37. "Electronic record" means a paperless record that is
23 created, generated, transmitted, communicated, received or stored by
24 means of electronic equipment and includes the preservation, retrieval,
25 use and disposition in accordance with regulations of the commissioner
26 and the commissioner of education and in compliance with federal law and
27 regulations.

28 ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or
29 process, attached to or logically associated with an electronic record
30 and executed or adopted by a person with the intent to sign the record,
31 in accordance with regulations of the commissioner and the commissioner
32 of education.

33 ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"
34 means the prescription monitoring program registry established pursuant
35 to section thirty-three hundred forty-three-a of this article.

36 ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
37 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
38 drug substance to create a drug with respect to an outsourcing facility
39 under section 503B of the federal Food, Drug and Cosmetic Act and
40 further defined in this section.

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

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

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

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

48 Notwithstanding any other provision of law to the contrary, when an
49 outsourcing facility distributes or dispenses any drug to any person
50 pursuant to a prescription, such outsourcing facility shall be deemed to
51 be providing pharmacy services and shall be subject to all laws, rules
52 and regulations governing pharmacies and pharmacy services.

53 § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
54 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
55 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
56 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) ~~[(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-methylenedioxy-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.

§ 5. 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, 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, unless the person grows in accordance with sections 221.05 and 221.05-a of the penal law.

§ 6. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs (a) and (b) of subdivision 11 of section 1311 of the civil practice law and rules, paragraph (d) of subdivision three and subdivision 3-a as added by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdivision 11 as amended by section 47 of part A-1 of chapter 56 of the laws of 2010, are amended to read as follows:

(d) In a forfeiture action commenced by a claiming authority against a defendant, the following rebuttable presumption shall apply: all currency or negotiable instruments payable to the bearer shall be presumed to be the proceeds of a pre-conviction forfeiture crime when such currency or negotiable instruments are (i) found in close proximity to a controlled substance unlawfully possessed by the defendant in an amount sufficient to constitute a violation of section 220.18 or 220.21 of the penal law, or (ii) found in close proximity to any quantity of a controlled substance [~~or marijuana~~] unlawfully possessed by such defendant in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, distribute, package or otherwise prepare for sale such controlled substance [~~or marijuana~~].

3-a. Conviction of a person in a criminal action upon an accusatory instrument which includes one or more of the felonies specified in subdivision four-b of section thirteen hundred ten of this article, of any felony other than such felonies, shall not preclude a defendant, in any subsequent proceeding under this article where that conviction is at issue, from adducing evidence that the conduct underlying the conviction would not establish the elements of any of the felonies specified in such subdivision other than the one to which the criminal defendant pled guilty. If the defendant does adduce such evidence, the burden shall be upon the claiming authority to prove, by clear and convincing evidence, that the conduct underlying the criminal conviction would establish the elements of the felony specified in such subdivision. Nothing contained in this subdivision shall affect the validity of a settlement of any forfeiture action negotiated between the claiming authority and a criminal defendant contemporaneously with the taking of a plea of guilty in a criminal action to any felony defined in article two hundred twenty [~~or section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to commit the same.

(a) Any stipulation or settlement agreement between the parties to a forfeiture action shall be filed with the clerk of the court in which the forfeiture action is pending. No stipulation or settlement agreement shall be accepted for filing unless it is accompanied by an affidavit from the claiming authority that written notice of the stipulation or settlement agreement, including the terms of such, has been given to the office of victim services, the state division of criminal justice services[, ~~and in the case of a forfeiture based on a felony defined in article two hundred twenty or section 221.30 or 221.55 of the penal law, to the state division of substance abuse services~~].

(b) No judgment or order of forfeiture shall be accepted for filing unless it is accompanied by an affidavit from the claiming authority

1 that written notice of judgment or order, including the terms of such,
2 has been given to the office of victim services, the state division of
3 criminal justice services[, ~~and in the case of a forfeiture based on a~~
4 ~~felony defined in article two hundred twenty or section 221.30 or 221.55~~
5 ~~of the penal law, to the state division of substance abuse services~~].

6 § 7. Subdivision 1 of section 3397-b of the public health law, as
7 added by chapter 810 of the laws of 1980, is amended to read as follows:

8 1. [~~"Marijuana"~~] "Marihuana" means [~~marijuana~~] marihuana as defined in
9 [~~section thirty-three hundred two of this chapter~~] subdivision six of
10 section 220.00 of the penal law and shall also include tetrahydrocanna-
11 binols or a chemical derivative of tetrahydrocannabinol.

12 § 8. Section 114-a of the vehicle and traffic law, as added by chapter
13 163 of the laws of 1973, is amended to read as follows:

14 § 114-a. Drug. The term "drug" when used in this chapter, means and
15 includes any substance listed in section thirty-three hundred six of the
16 public health law and marihuana and concentrated cannabis as defined in
17 section 220.00 of the penal law.

18 § 9. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
19 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
20 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
21 amended by chapter 664 of the laws of 1985, are amended and two new
22 subdivisions 21 and 22 are added to read as follows:

23 5. "Controlled substance" means any substance listed in schedule I,
24 II, III, IV or V of section thirty-three hundred six of the public
25 health law other than marihuana, but including concentrated cannabis as
26 defined in [~~paragraph (a) of subdivision four of section thirty-three~~
27 ~~hundred two of such law~~] subdivision twenty-one of this section.

28 6. "Marihuana" means [~~"marihuana" or "concentrated cannabis" as those~~
29 ~~terms are defined in section thirty-three hundred two of the public~~
30 ~~health law~~] all parts of the plant of the genus Cannabis, whether grow-
31 ing or not; the seeds thereof; the resin extracted from any part of the
32 plant; and every compound, manufacture, salt, derivative, mixture, or
33 preparation of the plant, its seeds or resin. It does not include the
34 mature stalks of the plant, fiber produced from the stalks, oil or cake
35 made from the seeds of the plant, any other compound, manufacture, salt,
36 derivative, mixture, or preparation of the mature stalks (except the
37 resin extracted therefrom), fiber, oil, or cake, or the sterilized seed
38 of the plant which is incapable of germination. It does not include all
39 parts of the plant Cannabis sativa L., whether growing or not, having no
40 more than three-tenths of one percent tetrahydrocannabinol (THC).

41 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~
42 ~~I(d)~~] paragraphs (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18),
43 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-
44 three hundred six of the public health law.

45 21. "Concentrated cannabis" means:

46 (a) the separated resin, whether crude or purified, obtained from a
47 plant of the genus Cannabis; or

48 (b) a material, preparation, mixture, compound or other substance
49 which contains more than three percent by weight of delta-9 tetrahydro-
50 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or
51 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene
52 numbering system.

53 22. "Marihuana products" means marihuana, concentrated cannabis, and
54 marihuana-infused products containing concentrated marihuana or cannabis
55 and other ingredients.

§ 10. Subdivision 4 of section 220.06 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

4. one or more preparations, compounds, mixtures or substances containing 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 and said preparations, compounds, mixtures or substances are of an aggregate weight of one-fourth ounce or more; or

§ 11. Subdivision 10 of section 220.09 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

10. one or more preparations, compounds, mixtures or substances containing 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 and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more; or

§ 12. Subdivision 3 of section 220.34 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

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

§ 13. 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 marihuana 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 marihuana 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 marihuana or concentrated cannabis.

Criminally using drug paraphernalia in the second degree is a class A misdemeanor.

§ 14. Sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 and 221.40 of the penal law are REPEALED.

§ 15. The penal law is amended by adding two new sections 221.05 and 221.05-a to read as follows:

§ 221.05 Personal use of marihuana.

1 1. Notwithstanding any other provision of this chapter, the following
2 acts are lawful under state and local law for persons twenty-one years
3 of age and older:

4 (a) possessing, using, being under the influence, displaying, purchas-
5 ing, obtaining, or transporting up to two pounds of marihuana and four
6 and one-half ounces of concentrated cannabis;

7 (b) transferring, without remuneration, to a person twenty-one years
8 of age and older up to two pounds of marihuana and four and one-half
9 ounces of concentrated cannabis;

10 (c) possessing, planting, cultivating, harvesting, drying, processing
11 or transporting not more than six living marihuana plants and possessing
12 the marihuana and concentrated cannabis produced by the plants;

13 (d) smoking, ingesting or otherwise consuming marihuana products;

14 (e) possessing, using, displaying, purchasing, obtaining, manufactur-
15 ing, transporting or giving away to persons twenty-one years of age and
16 older marihuana or concentrated cannabis paraphernalia; and

17 (f) assisting another person who is twenty-one years of age and older
18 or allow property to be used in any of the acts described in paragraphs
19 (a) through (e) of this subdivision.

20 2. Paragraph (e) of subdivision one of this section is intended to
21 meet the requirements of subsection (f) of Section 863 of Title twenty-
22 one of the United States Code (21 U.S.C. § 863 (f)) by authorizing,
23 under state law, any person in compliance with this section to manufac-
24 ture, possess, or distribute marihuana paraphernalia.

25 3. Marihuana products involved in any way with conduct deemed lawful
26 by this section are not contraband nor subject to seizure or forfeiture
27 of assets under article four hundred eighty of this chapter, section
28 thirteen hundred eleven of the civil practice law and rules, or other
29 applicable law, and no conduct deemed lawful by this section shall
30 constitute the basis for approach, search, seizure, arrest, and/or
31 detention.

32 4. (a) Except as provided in subdivision five of this section, none of
33 the following shall, individually or in combination with each other,
34 constitute reasonable suspicion of a crime or be used as evidence in any
35 criminal proceeding:

36 (1) the odor of marihuana or of burnt marihuana;

37 (2) the possession of or the suspicion of possession of marihuana
38 products;

39 (3) The possession of multiple containers of marihuana without
40 evidence of marihuana quantity in excess of sixteen ounces or concen-
41 trated cannabis quantity in excess of four and one-half ounces; or

42 (4) the presence of cash or currency cannot be used as evidence in any
43 cases involving unlicensed sale of marihuana.

44 (b) The possession of not more than two pounds of marihuana or not
45 more than four and one-half ounces of concentrated cannabis cannot be
46 used as evidence in any cases involving unlicensed sale of marihuana.

47 5. Subdivision four of this section shall not apply when a law
48 enforcement officer is investigating whether a person is operating or in
49 physical control of a vehicle or watercraft while intoxicated, under the
50 influence of, or impaired by alcohol or a drug or any combination there-
51 of in violation of section eleven hundred ninety-two of the vehicle and
52 traffic law.

53 6. Possession of greater than two pounds of marihuana and greater than
54 four and one-half ounces of concentrated cannabis is a violation punish-
55 able by a fine of not more than one hundred twenty-five dollars per
56 offense.

§ 221.05-a Personal cultivation of marihuana.

1. Personal cultivation of marihuana under paragraph (c) of subdivision one of section 221.05 of this article is subject to the following restrictions:

(a) a person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision two of this section;

(b) the living plants and any marihuana produced by the plants in excess of two pounds are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place; and

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

2. (a) A town, city or village may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (c) of subdivision one of section 221.05 of this article, provided that a violation of such a regulation is only subject to an infraction and fine.

(b) Notwithstanding paragraph (a) of this subdivision, no town, city or village may completely prohibit persons engaging in the actions and conduct under paragraph (c) of subdivision one of section 221.05 of this article.

3. A violation of subdivision one or two of this section is a violation punishable by a fine of not more than one hundred twenty-five dollars per offense.

§ 16. 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~~] Unlicensed sale of marihuana in the third degree.

A person is guilty of [~~criminal~~] unlicensed sale of marihuana in the third 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 twenty-five grams~~] with remuneration not more than two pounds of marihuana or not more than four and one-half ounces of concentrated cannabis, not including the weight of any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other product.

[~~Criminal~~] Unlicensed sale of marihuana in the third degree is [~~a class E felony~~] subject to the following:

1. A violation punishable by a fine of not more than one hundred twenty-five dollars, for a first offense;

2. A violation punishable by a fine of not more than two hundred fifty dollars for a second offense;

3. A class B misdemeanor and a fine of not more than five hundred dollars for a third or subsequent offense.

§ 17. 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~~] Unlicensed sale of marihuana in the second degree.

A person twenty-one years of age and older is guilty of [~~criminal~~] unlicensed sale of marihuana in the second degree when he knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds,

1 mixtures or substances are of an aggregate weight of more than four
2 ounces, or knowingly and unlawfully sells one or more preparations,
3 compounds, mixtures [~~or substances containing marihuana~~] to a person
4 less than [~~eighteen~~] twenty-one years of age.

5 [~~Criminal~~] Unlicensed sale of marihuana in the second degree is a
6 class [~~D~~] E felony.

7 § 18. Section 221.55 of the penal law, as amended by chapter 265 of
8 the laws of 1979, the opening paragraph as amended by chapter 75 of the
9 laws of 1995, is amended to read as follows:

10 § 221.55 [~~Criminal~~] Unlicensed sale of marihuana in the first degree.

11 A person is guilty of [~~criminal~~] unlicensed sale of marihuana in the
12 first degree when he knowingly and unlawfully sells to a person less
13 than twenty-one years of age one or more preparations, compounds,
14 mixtures or substances containing marihuana and the preparations,
15 compounds, mixtures or substances are of an aggregate weight of more
16 than sixteen ounces.

17 [~~Criminal~~] Unlicensed sale of marihuana in the first degree is a class
18 [~~C~~] E felony.

19 § 19. The penal law is amended by adding a new section 221.60 to read
20 as follows:

21 § 221.60 Licensing of marihuana production and distribution.

22 The provisions of this article and of article two hundred twenty of
23 this title shall not apply to any person exempted from criminal penal-
24 ties pursuant to the provisions of this chapter or possessing, manufac-
25 turing, transporting, distributing, selling or transferring marihuana or
26 concentrated cannabis, or engaged in any other action that is in compli-
27 ance with article eleven of the alcoholic beverage control law.

28 § 20. Subdivision 8 of section 1399-n of the public health law, as
29 amended by chapter 13 of the laws of 2003, is amended to read as
30 follows:

31 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
32 any other matter or substance which contains tobacco or marihuana;
33 provided that it does not include the use of an electronic smoking
34 device that creates an aerosol or vapor, unless local or state statutes
35 extend prohibitions on smoking to electronic smoking devices.

36 § 21. Section 2 of the alcoholic beverage control law, as amended by
37 chapter 406 of the laws of 2014, is amended to read as follows:

38 § 2. Policy of state and purpose of chapter. It is hereby declared as
39 the policy of the state that it is necessary to regulate and control the
40 manufacture, sale and distribution within the state of alcoholic bever-
41 ages and marihuana products for the purpose of fostering and promoting
42 temperance in their consumption and respect for and obedience to law;
43 for the primary purpose of promoting the health, welfare and safety of
44 the people of the state, promoting temperance in the consumption of
45 alcoholic beverages and marihuana products; and, to the extent possible,
46 supporting economic growth, job development, and the state's alcoholic
47 beverage production industries, marihuana production industries and its
48 tourism and recreation industry; and which promotes the conservation and
49 enhancement of state agricultural lands; provided that such activities
50 do not conflict with the primary regulatory objectives of this chapter.
51 It is hereby declared that such policies will best be carried out by
52 empowering the liquor authority of the state to determine whether public
53 convenience and advantage will be promoted by the issuance of licenses
54 to traffic in alcoholic beverages and marihuana products, the increase
55 or decrease in the number thereof and the location of premises licensed
56 thereby, subject only to the right of judicial review provided for in

1 this chapter. It is the purpose of this chapter to carry out these poli-
2 cies in the public interest.

3 § 22. Subdivisions 20-a, 20-b, 20-c, 20-d, 20-e, 20-f, and 20-g of
4 section 3 of the alcoholic beverage control law are renumbered subdivi-
5 sions 20-j, 20-k, 20-l, 20-m, 20-n, 20-o, and 20-p and ten new subdivi-
6 sions 7-e, 20-a, 20-b, 20-c, 20-d, 20-e, 20-f, 20-g, 20-h and 20-i are
7 added to read as follows:

8 7-e. "Concentrated cannabis" means: (a) the separated resin, whether
9 crude or purified, obtained from a plant of the genus Cannabis; or

10 (b) a material, preparation, mixture, compound or other substance
11 which contains more than three percent by weight of delta-9 tetrahydro-
12 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or
13 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene
14 numbering system.

15 20-a. "Marihuana" means all parts of the plant of the genus Cannabis,
16 whether growing or not; the seeds thereof; the resin extracted from any
17 part of the plant; and every compound, manufacture, salt, derivative,
18 mixture, or preparation of the plant, its seeds or resin. It does not
19 include the mature stalks of the plant, fiber produced from the stalks,
20 oil or cake made from the seeds of the plant, any other compound, manu-
21 facture, salt, derivative, mixture, or preparation of the mature stalks
22 (except the resin extracted therefrom), fiber, oil, or cake, or the
23 sterilized seed of the plant which is incapable of germination. It does
24 not include all parts of the plant Cannabis sativa L., whether growing
25 or not, having no more than three-tenths of one percent tetrahydrocanna-
26 binol (THC).

27 20-b. "Marihuana consumer" means a person twenty-one years of age or
28 older who purchases marihuana or marihuana products for personal use by
29 persons twenty-one years of age or older, but not for resale to others.

30 20-c. "Marihuana processor" means a person licensed by the bureau to
31 purchase marihuana and concentrated cannabis from marihuana producers,
32 to process marihuana, concentrated cannabis, and marihuana infused
33 products, package and label marihuana, concentrated cannabis and mari-
34 huana infused products for sale in retail outlets, and sell marihuana,
35 concentrated cannabis and marihuana infused products at wholesale to
36 marihuana retailers.

37 20-d. "Marihuana producer" means a person licensed by the bureau to
38 produce, process, and sell marihuana and concentrated cannabis at whole-
39 sale to marihuana processors, marihuana retailers, or other marihuana
40 producers, but not to consumers.

41 20-e. "Marihuana products" means marihuana, concentrated cannabis, and
42 marihuana-infused products.

43 20-f. "Marihuana-infused products" means products that contain mari-
44 huana, or concentrated cannabis and are intended for human use or
45 consumption, such as, but not limited to, edible products, ointments,
46 and tinctures.

47 20-g. "Marihuana retailer" means a person licensed by the bureau to
48 purchase marihuana, concentrated cannabis, and marihuana-infused
49 products from marihuana producers and marihuana processors and sell
50 marihuana, marihuana infused products, and concentrated cannabis in a
51 retail outlet.

52 20-h. "Marihuana retailer for on-premises consumption" means a person
53 licensed by the bureau to purchase marihuana, concentrated cannabis, and
54 marihuana infused products from marihuana producers, marihuana retail-
55 ers, and marihuana processors and sell marihuana products for a customer
56 to consume while the customer is within a facility.

20-i. "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time or other resource or asset that the operation of a marihuana establishment is not worthy of being carried out by a reasonably prudent businessperson.

§ 23. Section 65-b of the alcoholic beverage control law, as amended by chapter 519 of the laws of 1999, paragraphs (b) and (c) of subdivision 3 as amended by chapter 257 of the laws of 2013 and the opening paragraph of subdivision 6 as amended by chapter 503 of the laws of 2000, is amended to read as follows:

§ 65-b. Offense for one under age of twenty-one years to purchase or attempt to purchase an alcoholic beverage or marihuana products through fraudulent means. 1. As used in this section: (a) "A device capable of deciphering any electronically readable format" or "device" shall mean any commercial device or combination of devices used at a point of sale or entry that is capable of reading the information encoded on the magnetic strip or bar code of a driver's license or non-driver identification card issued by the commissioner of motor vehicles;

(b) "Card holder" means any person presenting a driver's license or non-driver identification card to a licensee, or to the agent or employee of such licensee under this chapter; and

(c) "Transaction scan" means the process involving a device capable of deciphering any electronically readable format by which a licensee, or agent or employee of a licensee under this chapter reviews a driver's license or non-driver identification card presented as a precondition for the purchase of an alcoholic beverage or marihuana products as required by subdivision two of this section or as a precondition for admission to an establishment licensed for the on-premises sale of alcoholic beverages or marihuana products where admission is restricted to persons twenty-one years or older.

2. (a) No person under the age of twenty-one years shall present or offer to any licensee under this chapter, or to the agent or employee of such licensee, any written evidence of age which is false, fraudulent or not actually his or her own, for the purpose of purchasing or attempting to purchase any alcoholic beverage or marihuana products.

(b) No licensee, or agent or employee of such licensee shall accept as written evidence of age by any such person for the purchase of any alcoholic beverage or marihuana products, any documentation other than: (i) a valid driver's license or non-driver 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 (ii) a valid passport issued by the United States government or any other country, or (iii) an identification card issued by the armed forces of the United States. Upon the presentation of such driver's license or non-driver identification card issued by a governmental entity, such licensee or agent or employee thereof may perform a transaction scan as a precondition to the sale of any alcoholic beverage. Nothing in this section shall prohibit a licensee or agent or employee from performing such a transaction scan on any of the other documents listed in this subdivision if such documents include a bar code or magnetic strip that ~~that~~ may be scanned by a device capable of deciphering any electronically readable format.

(c) In instances where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card presented by the card holder, or if the

1 transaction scan indicates that the information is false or fraudulent,
2 the attempted purchase of the alcoholic beverage or marihuana products
3 shall be denied.

4 3. A person violating the provisions of paragraph (a) of subdivision
5 two of this section shall be guilty of a violation and shall be
6 sentenced in accordance with the following:

7 (a) For a first violation, the court shall order payment of a fine of
8 not more than one hundred dollars and/or an appropriate amount of commu-
9 nity service not to exceed thirty hours. In addition, the court may
10 order completion of an alcohol awareness program established pursuant to
11 section 19.25 of the mental hygiene law or of a marihuana awareness
12 program.

13 (b) For a second violation, the court shall order payment of a fine of
14 not less than fifty dollars nor more than three hundred fifty dollars
15 and/or an appropriate amount of community service not to exceed sixty
16 hours. The court also shall order completion of an alcohol or marihuana
17 awareness program as referenced in paragraph (a) of this subdivision if
18 such program has not previously been completed by the offender, unless
19 the court determines that attendance at such program is not feasible due
20 to the lack of availability of such program within a reasonably close
21 proximity to the locality in which the offender resides or matriculates,
22 as appropriate.

23 (c) For third and subsequent violations, the court shall order payment
24 of a fine of not less than fifty dollars nor more than seven hundred
25 fifty dollars and/or an appropriate amount of community service not to
26 exceed ninety hours. The court also shall order that such person submit
27 to an evaluation by an appropriate agency certified or licensed by the
28 office of alcoholism and substance abuse services to determine whether
29 the person suffers from [~~the disease of alcoholism or~~] alcohol [~~abuse~~]
30 use disorder or cannabis use disorder, unless the court determines that
31 under the circumstances presented such an evaluation is not necessary,
32 in which case the court shall state on the record the basis for such
33 determination. Payment for such evaluation shall be made by such person.
34 If, based on such evaluation, a need for treatment is indicated, such
35 person may choose to participate in a treatment plan developed by an
36 agency certified or licensed by the office of alcoholism and substance
37 abuse services. If such person elects to participate in recommended
38 treatment, the court shall order that payment of such fine and community
39 service be suspended pending the completion of such treatment.

40 (d) Evaluation procedures. For purposes of this subdivision, the
41 following shall apply:

42 (i) The contents of an evaluation pursuant to paragraph (c) of this
43 subdivision shall be used for the sole purpose of [~~determining if such~~
44 ~~person suffers from the disease of alcoholism or alcohol abuse~~] deter-
45 mining if such person meets the criteria for an alcohol use disorder or
46 cannabis use disorder.

47 (ii) The agency designated by the court to perform such evaluation
48 shall conduct the evaluation and return the results to the court within
49 thirty days, subject to any state or federal confidentiality law, rule
50 or regulation governing the confidentiality of alcohol and substance
51 [~~abuse~~] use disorder treatment records.

52 (iii) The office of alcoholism and substance abuse services shall make
53 available to each supreme court law library in this state, or, if no
54 supreme court law library is available in a certain county, to the coun-
55 ty court law library of such county, a list of agencies certified to

1 perform evaluations as required by subdivision (f) of section 19.07 of
2 the mental hygiene law.

3 (iv) All evaluations required under this subdivision shall be in writ-
4 ing and the person so evaluated or his or her counsel shall receive a
5 copy of such evaluation prior to its use by the court.

6 (v) A minor evaluated under this subdivision shall have, and shall be
7 informed by the court of, the right to obtain a second opinion regarding
8 his or her need for [~~alcoholism~~] treatment of an alcohol or other
9 substance use disorder.

10 4. A person violating the provisions of paragraph (b) of subdivision
11 two of this section shall be guilty of a violation punishable by a fine
12 of not more than one hundred dollars, and/or an appropriate amount of
13 community service not to exceed thirty hours. In addition, the court may
14 order completion of an alcohol or substance use disorder training aware-
15 ness program established pursuant to subdivision twelve of section
16 seventeen of this chapter where such program is located within a reason-
17 ably close proximity to the locality in which the offender is employed
18 or resides.

19 5. No determination of guilt pursuant to this section shall operate as
20 a disqualification of any such person subsequently to hold public
21 office, public employment, or as a forfeiture of any right or privilege
22 or to receive any license granted by public authority; and no such
23 person shall be denominated a criminal by reason of such determination.

24 6. In addition to the penalties otherwise provided in subdivision
25 three of this section, if a determination is made sustaining a charge of
26 illegally purchasing or attempting to illegally purchase an alcoholic
27 beverage or marijuana products, the court may suspend such person's
28 license to drive a motor vehicle and the privilege of an unlicensed
29 person of obtaining such license, in accordance with the following and
30 for the following periods, if it is found that a driver's license was
31 used for the purpose of such illegal purchase or attempt to illegally
32 purchase; provided, however, that where a person is sentenced pursuant
33 to paragraph (b) or (c) of subdivision three of this section, the court
34 shall impose such license suspension if it is found that a driver's
35 license was used for the purpose of such illegal purchase or attempt to
36 illegally purchase:

37 (a) For a first violation of paragraph (a) of subdivision two of this
38 section, a three month suspension.

39 (b) For a second violation of paragraph (a) of subdivision two of this
40 section, a six month suspension.

41 (c) For a third or subsequent violation of paragraph (a) of subdivi-
42 sion two of this section, a suspension for one year or until the holder
43 reaches the age of twenty-one, whichever is the greater period of time.

44 Such person may thereafter apply for and be issued a restricted use
45 license in accordance with the provisions of section five hundred thirty
46 of the vehicle and traffic law.

47 7. (a) In any proceeding pursuant to subdivision one of section
48 sixty-five of this article, it shall be an affirmative defense that such
49 person had produced a driver's license or non-driver identification card
50 apparently issued by a governmental entity, successfully completed the
51 transaction scan, and that the alcoholic beverage or marijuana products
52 had been sold, delivered or given to such person in reasonable reliance
53 upon such identification and transaction scan. In evaluating the appli-
54 cability of such affirmative defense, the liquor authority shall take
55 into consideration any written policy adopted and implemented by the
56 seller to carry out the provisions of this chapter. Use of a transaction

1 scan shall not excuse any licensee under this chapter, or agent or
2 employee of such licensee, from the exercise of reasonable diligence
3 otherwise required by this section. Notwithstanding the above
4 provisions, any such affirmative defense shall not be applicable in any
5 other civil or criminal proceeding, or in any other forum.

6 (b) A licensee or agent or employee of a licensee may electronically
7 or mechanically record and maintain only the information from a trans-
8 action scan necessary to effectuate the purposes of this section. Such
9 information shall be limited to the following: (i) name, (ii) date of
10 birth, (iii) driver's license or non-driver identification number, and
11 (iv) expiration date. The liquor authority and the state commissioner of
12 motor vehicles shall jointly promulgate any regulation necessary to
13 govern the recording and maintenance of these records by a licensee
14 under this chapter. The liquor authority and the commissioner of health
15 shall jointly promulgate any regulations necessary to ensure quality
16 control in the use of transaction scan devices.

17 8. A licensee or agent or employee of such licensee shall only use the
18 information recorded and maintained through the use of such devices for
19 the purposes contained in paragraph (a) of subdivision seven of this
20 section, and shall only use such devices for the purposes contained in
21 subdivision two of this section. No licensee or agent or employee of a
22 licensee shall resell or disseminate the information recorded during
23 such scan to any third person. Such prohibited resale or dissemination
24 includes, but is not limited to, any advertising, marketing or promo-
25 tional activities. Notwithstanding the restrictions imposed by this
26 subdivision, such records may be released pursuant to a court ordered
27 subpoena or pursuant to any other statute that specifically authorizes
28 the release of such information. Each violation of this subdivision
29 shall be punishable by a civil penalty of not more than one thousand
30 dollars.

31 § 24. Section 65-c of the alcoholic beverage control law, as added by
32 chapter 592 of the laws of 1989, paragraph (a) of subdivision 2 as
33 amended by chapter 409 of the laws of 2016 and subdivision 3 as amended
34 by chapter 137 of the laws of 2001, is amended to read as follows:

35 § 65-c. Unlawful possession of an alcoholic beverage or marihuana
36 product with the intent to consume by persons under the age of twenty-
37 one years. 1. Except as hereinafter provided, no person under the age of
38 twenty-one years shall possess any alcoholic beverage or marihuana prod-
39 uct, as defined in this chapter, with the intent to consume such bever-
40 age or marihuana product.

41 2. A person under the age of twenty-one years may possess any alcohol-
42 ic beverage or marihuana product with intent to consume if the alcoholic
43 beverage or marihuana product is given:

44 (a) to a person who is a student in a curriculum licensed or regis-
45 tered by the state education department and the student is required to
46 taste or imbibe alcoholic beverages or marihuana products in on-campus
47 or off-campus courses which are a part of the required curriculum,
48 provided such alcoholic beverages or marihuana products are used only
49 for instructional purposes during class conducted pursuant to such
50 curriculum; or

51 (b) to the person under twenty-one years of age by that person's
52 parent or guardian.

53 3. Any person who unlawfully possesses an alcoholic beverage or mari-
54 huana product with intent to consume may be summoned before and examined
55 by a court having jurisdiction of that charge; provided, however, that
56 nothing contained herein shall authorize, or be construed to authorize,

1 a peace officer as defined in subdivision thirty-three of section 1.20
2 of the criminal procedure law or a police officer as defined in subdivi-
3 sion thirty-four of section 1.20 of such law to arrest a person who
4 unlawfully possesses an alcoholic beverage or marihuana product with
5 intent to consume. If a determination is made sustaining such charge the
6 court may impose a fine not exceeding fifty dollars and/or completion of
7 an alcohol or drug awareness program established pursuant to section
8 19.25 of the mental hygiene law and/or an appropriate amount of communi-
9 ty service not to exceed thirty hours.

10 4. No such determination shall operate as a disqualification of any
11 such person subsequently to hold public office, public employment, or as
12 a forfeiture of any right or privilege or to receive any license granted
13 by public authority; and no such person shall be denominated a criminal
14 by reason of such determination, nor shall such determination be deemed
15 a conviction.

16 5. Whenever a peace officer as defined in subdivision thirty-three of
17 section 1.20 of the criminal procedure law or police officer as defined
18 in subdivision thirty-four of section 1.20 of the criminal procedure law
19 shall observe a person under twenty-one years of age openly in
20 possession of an alcoholic beverage or marihuana product as defined in
21 this chapter, with the intent to consume such beverage or product in
22 violation of this section, said officer may seize the beverage or prod-
23 uct, and shall deliver it to the custody of his or her department.

24 6. Any alcoholic beverage or marihuana product seized in violation of
25 this section is hereby declared a nuisance. The official to whom the
26 beverage or product has been delivered shall, no earlier than three days
27 following the return date for initial appearance on the summons, dispose
28 of or destroy the alcoholic beverage or marihuana product seized or
29 cause it to be disposed of or destroyed. Any person claiming ownership
30 of an alcoholic beverage or marihuana product seized under this section
31 may, on the initial return date of the summons or earlier on five days
32 notice to the official or department in possession of the beverage or
33 product, apply to the court for an order preventing the destruction or
34 disposal of the alcoholic beverage or marihuana product seized and
35 ordering the return of that beverage or product. The court may order
36 the beverage or product returned if it is determined that return of the
37 beverage or product would be in the interest of justice or that the
38 beverage or product was improperly seized.

39 § 25. The alcoholic beverage control law is amended by adding a new
40 section 65-e to read as follows:

41 § 65-e. Restrictions on personal consumption of marihuana. 1. Nothing
42 in sections 221.05 and 221.05-a of the penal law shall be construed to
43 permit any person to:

44 (a) smoke marihuana in public;

45 (b) smoke marihuana products in a location where smoking tobacco is
46 prohibited pursuant to section thirteen hundred ninety-nine-o of the
47 public health law;

48 (c) possess, smoke or ingest marihuana products in or upon the grounds
49 of any school property used for school purposes which is owned by or
50 leased to any elementary or secondary school or school board while chil-
51 dren are present; or

52 (d) smoke or ingest marihuana products while driving, operating a
53 motor vehicle, boat, vessel, aircraft, or other vehicle used for trans-
54 portation.

55 2. For purposes of this section:

1 (a) "Smoke" means to inhale, exhale, burn, or carry any lighted or
2 heated device or pipe, or any other lighted or heated marihuana or
3 concentrated cannabis product intended for inhalation, whether natural
4 or synthetic, in any manner or in any form.

5 (b) "Smoke" does not include the use of an electronic smoking device
6 that creates an aerosol or vapor, unless local or state statutes extend
7 prohibitions on smoking to electronic smoking devices.

8 3. Violations of the restrictions under this section are subject to a
9 fine not exceeding twenty-five dollars or an appropriate amount of
10 community service not to exceed twenty hours.

11 § 26. Section 140 of the alcoholic beverage control law, as amended by
12 chapter 810 of the laws of 1981, is amended to read as follows:

13 § 140. Applicability of chapter before local option. Until such time
14 as it shall become unlawful to sell alcoholic beverages or marihuana
15 products in any town or city by the vote of the voters in such town or
16 city in the manner provided in this article, all of the provisions of
17 this chapter shall apply throughout the entire state. This article shall
18 not apply to the Whiteface mountain ski center, owned by the state and
19 located in the town of Wilmington, county of Essex.

20 § 27. Section 141 of the alcoholic beverage control law, as amended by
21 chapter 319 of the laws of 2007, is amended to read as follows:

22 § 141. Local option for towns. 1. Not less than sixty days nor more
23 than seventy-five days before the general election in any town at which
24 the submission of the questions hereinafter stated is authorized by this
25 article, a petition signed by electors of the town to a number amounting
26 to twenty-five per centum of the votes cast in the town for governor at
27 the then last preceding gubernatorial election, acknowledged by the
28 signers or authenticated by witnesses as provided in the election law in
29 respect of a nominating petition, requesting the submission at such
30 election to the electors of the town of one or more of the following
31 questions, may be filed with the town clerk:

32 Question 1. Tavern alcoholic beverage license. Shall a person be
33 allowed to obtain a license to operate a tavern with a limited-service
34 menu (sandwiches, salads, soups, etc.) which permits the tavern operator
35 to sell alcoholic beverages for a customer to drink while the customer
36 is within the tavern. In addition, unopened containers of beer (such as
37 six-packs and kegs) may be sold "to go" for the customer to open and
38 drink at another location (such as, for example, at his home)?

39 Question 2. Restaurant alcoholic beverage license. Shall the operator
40 of a full-service restaurant be allowed to obtain a license which
41 permits the restaurant operator to sell alcoholic beverages for a
42 customer to drink while the customer is within the restaurant. In addi-
43 tion, unopened containers of beer (such as six-packs and kegs) may be
44 sold "to go" for the customer to open and drink at another location
45 (such as, for example, at his home)?

46 Question 3. Year-round hotel alcoholic beverage license. Shall the
47 operator of a year-round hotel with a full-service restaurant be allowed
48 to obtain a license which permits the year-round hotel to sell alcoholic
49 beverages for a customer to drink while the customer is within the
50 hotel. In addition, unopened containers of beer (such as six-packs and
51 kegs) may be sold "to go" for the customer to open and drink at another
52 location (such as, for example, at his home)?

53 Question 4. Summer hotel alcoholic beverage license. Shall the opera-
54 tor of a summer hotel with a full-service restaurant, open for business
55 only within the period from May first to October thirty-first in each
56 year, be allowed to obtain a license which permits the summer hotel to

1 sell alcoholic beverages for a customer to drink while the customer is
2 within the hotel. In addition, unopened containers of beer (such as
3 six-packs and kegs) may be sold "to go" for the customer to open and
4 drink at another location (such as, for example, at his home)?

5 Question 5. Retail package liquor or wine store license. Shall a
6 person be allowed to obtain a license to operate a retail package
7 liquor-and-wine or wine-without-liquor store, to sell "to go" unopened
8 bottles of liquor or wine to a customer to be taken from the store for
9 the customer to open and drink at another location (such as, for exam-
10 ple, at his home)?

11 Question 6. Off-premises beer and wine cooler license. Shall the oper-
12 ator of a grocery store, drugstore or supply ship operating in the
13 harbors of Lake Erie be allowed to obtain a license which permits the
14 operator to sell "to go" unopened containers of beer (such as six-packs
15 and kegs) and wine coolers with not more than 6% alcohol to a customer
16 to be taken from the store for the customer to open and drink at another
17 location (such as, for example, at his home)?

18 Question 7. Baseball park, racetrack, athletic field or stadium
19 license. Shall a person be allowed to obtain a license which permits
20 the sale of beer for a patron's consumption while the patron is within a
21 baseball park, racetrack, or other athletic field or stadium where
22 admission fees are charged?

23 Question 8. Marihuana retailer license. Shall a person be allowed to
24 obtain a license to operate a retail marihuana store, to sell unopened
25 marihuana products to a customer to be taken from the store for the
26 customer to open and consume at another location (such as, for example,
27 at his home)?

28 Question 9. On-premises marihuana retailer licenses. Shall a person be
29 allowed to obtain a license to operate a facility where the service of
30 food is only incidental and permits the facility operator to sell mari-
31 huana products for a customer to consume while the customer is within
32 the facility?

33 2. Upon the due filing of such petition complying with the foregoing
34 provisions, such questions shall be submitted in accordance therewith.

35 3. The town clerk shall, within five days from the filing of such
36 petition in his office, prepare and file in the office of the board of
37 elections, as defined by the election law, of the county, a certified
38 copy of such petition. Such questions may be submitted only at the time
39 of a general election. At least ten days before such general election,
40 the board of elections shall cause to be printed and posted in at least
41 four public places in such town, a notice of the fact that all of the
42 local option questions will be voted on at such general election; and
43 the said notice shall also be published at least five days before the
44 vote is to be taken once in a newspaper published in the county in which
45 such town is situated, which shall be a newspaper published in the town,
46 if there be one. Whenever such questions are to be submitted under the
47 provisions of this article the board of elections shall cause the proper
48 ballot labels to be printed and placed on all voting machines used in
49 the town in which such questions are to be submitted, in the form
50 prescribed by the election law in respect of other propositions or ques-
51 tions, upon the face of which shall be printed in full the said ques-
52 tions. Any elector qualified to vote for state officers shall be enti-
53 tled to vote upon such local option questions. As soon as the election
54 shall be held, a return of the votes cast and counted shall be made as
55 provided by law and the returns canvassed by the inspectors of election.
56 If a majority of the votes cast shall be in the negative on all or any

1 of the questions, no person shall, after such election, sell alcoholic
2 beverages or marihuana products in such town contrary to such vote or to
3 the provisions of this chapter; provided, however, that the result of
4 such vote shall not shorten the term for which any license may have been
5 lawfully issued under this chapter or affect the rights of the licensee
6 thereunder; and no person shall after such vote apply for or receive a
7 license to sell alcoholic beverages or marihuana products at retail in
8 such town contrary to such vote, until, by referendum as hereinafter
9 provided for, such sale shall again become lawful.

10 § 28. Subdivision 3 of section 142 of the alcoholic beverage control
11 law is amended to read as follows:

12 3. If a majority of the votes cast shall be in the negative on any or
13 all of the questions, no person shall, after such election, sell alco-
14 holic beverages or marihuana products in such city contrary to such vote
15 or to the provisions of this chapter; provided, however, that the result
16 of such vote shall not shorten the term for which any license may have
17 been lawfully issued under this chapter or affect the rights of the
18 licensee thereunder; and no person shall after such vote apply for or
19 receive a license to sell alcoholic beverages or marihuana products at
20 retail in such city contrary to such vote, until, by referendum as here-
21 inafter provided for, such sale shall again become lawful.

22 § 29. Subdivision 2 of section 147 of the alcoholic beverage control
23 law is amended to read as follows:

24 2. If at the time of any subsequent submission of such questions it
25 shall be lawful to sell alcoholic beverages or marihuana products and a
26 majority of the votes cast shall be in the negative on such questions,
27 then all of the provisions of this article applicable thereto shall
28 become effective.

29 § 30. Article 11 and sections 160, 161, 162, 163 and 164 of the alco-
30 holic beverage control law, article 11 and sections 160, 161, 162 and
31 163 as renumbered by chapter 725 of the laws of 1954, are renumbered
32 article 12 and sections 200, 201, 202, 203, and 204.

33 § 31. The alcoholic beverage control law is amended by adding a new
34 article 11 to read as follows:

35 ARTICLE 11

36 PROVISIONS RELATING TO MARIHUANA

37 Section 165. Definitions.

38 166. Bureau of marihuana policy.

39 167. Administration of the bureau of marihuana policy.

40 168. Authority to promulgate rules and regulations.

41 169. Licenses issued.

42 170. Licensing limits.

43 171. Actions taken pursuant to a valid license are lawful.

44 172. General prohibitions and restrictions.

45 173. Certain officials not to be interested in the manufacture
46 or sale of marihuana.

47 174. Provisions governing initial rulemaking.

48 175. Provisions governing marihuana producers.

49 176. Provisions governing processors.

50 177. Provisions governing marihuana retailers.

51 178. Provisions governing marihuana on-site consumption
52 licenses.

53 179. Advertising and forms for the issuance of licenses.

54 180. Packaging of marihuana products.

55 181. Labeling of marihuana products.

56 182. Seed to sale tracking.

183. Renewals of licenses and permits.
184. Information to be provided by applicants.
185. Notification to towns, cities or villages.
186. Licenses, publication, general provisions.
187. Revocation of licenses for cause.
188. Procedure for revocation or cancellation.
189. Decisions of the bureau of marihuana policy and review by the courts.
190. Minority and women-owned businesses and incubator program.
191. Disposition of moneys received for license fees.
192. Persons forbidden to traffic in marihuana.
193. Surrender of license; notice to police officials.
194. Protections for the use of marihuana.
195. Discrimination protections for the use of marihuana or medical marihuana.
196. Employment protections.
197. Protections for persons under state supervision.
198. Professional and medical record keeping.

§ 165. Definitions. Whenever used in this chapter, unless the context requires otherwise:

1. "Applicant" means an owner applying for a license pursuant to this article.
2. "Bureau" means the bureau of marihuana policy within the authority.
3. "Commercial marihuana activity" means the production, processing, possession, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of marihuana and marihuana products as provided for in this article.
4. "Customer" means a natural person twenty-one years of age or older.
5. "Delivery" means a licensee that delivers retail marihuana and marihuana products to customers. Retailer licensees and microbusiness licensees are permitted to deliver retail marihuana and marihuana products to customers without obtaining an additional distributor license.
6. "Distribution" means the procurement, sale, and transport of marihuana and marihuana products between entities licensed pursuant to this article.
7. "Distributor" means a licensee for the distribution of marihuana and marihuana products between entities licensed pursuant to this article. Producer licensees, processor licensees, and microbusiness licensees are permitted to distribute marihuana and marihuana products between entities licensed pursuant to this article without obtaining an additional distributor license.
8. "Labeling" means any label or other written, printed, or graphic matter upon a marihuana product, or upon its container or wrapper, or that accompanies any marihuana product.
9. "License" means a state license issued under this article. Each license issued pursuant to this article corresponds to a single place of business.
10. "Licensee" means any person or entity holding a license under this article.
11. "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, manu-

1 facture, salt, derivative, mixture, or preparation of the mature stalks
2 (except the resin extracted therefrom), fiber, oil, or cake, or the
3 sterilized seed of the plant which is incapable of germination. It does
4 not include all parts of the plant Cannabis Sativa L., whether growing
5 or not, having no more than three-tenths of one percent tetrahydrocanna-
6 binol (THC).

7 12. "Marihuana products" means marihuana, concentrated cannabis, and
8 marihuana-infused products.

9 13. "Marihuana-infused products" means products that contain marihua-
10 na, or concentrated cannabis and are intended for human use or consump-
11 tion, such as, but not limited to, edible products, ointments, and tinc-
12 tures.

13 14. "Microbusiness" means a licensee that may act as a marihuana
14 producer for the cultivation of marihuana on an area less than ten thou-
15 sand square feet, a marihuana processor, and a marihuana retailer under
16 this article, provided such licensee complies with all requirements
17 imposed by this article on licensed producers, processors, and retailers
18 to the extent the licensee engages in such activities. A "microbusiness"
19 may distribute marihuana and marihuana products to other licensed mari-
20 huana businesses and may deliver marihuana and marihuana products to
21 customers.

22 15. "Nursery" means a licensee that produces only clones, immature
23 plants, seeds, and other agricultural products used specifically for the
24 planting, propagation, and cultivation of marihuana.

25 16. "Onsite consumption" means a marihuana retail licensee or a mari-
26 huana microbusiness that permits the consumption of marihuana and mari-
27 huana products at the licensee's place of business.

28 17. "Owner" means an individual with an aggregate ownership interest
29 of twenty percent or more in a marihuana business licensed pursuant to
30 this article, unless such interest is solely a security, lien, or encum-
31 brance, or an individual that will be participating in the direction,
32 control, or management of the licensed marihuana business.

33 18. "Package" means any container or receptacle used for holding mari-
34 huana or marihuana products.

35 19. "Processor" means a licensee that compounds, blends, extracts,
36 infuses, or otherwise makes or prepares marihuana products, but not the
37 production of the marihuana contained in the marihuana product. A
38 "processor" may also distribute marihuana and marihuana products to
39 other licensed marihuana businesses.

40 20. "Producer" means a licensee that plants, grows, harvests, dries,
41 cures, grades, or trims marihuana. A "producer" may also distribute
42 marihuana to other licensed marihuana businesses.

43 21. "Retailer" means a licensee that sells marihuana or marihuana
44 products directly to customers. A "retailer" may deliver marihuana and
45 marihuana products to customers.

46 22. "Testing facility" means a licensee that tests marihuana and mari-
47 huana products.

48 § 166. Bureau of marihuana policy. There is hereby established in the
49 authority a bureau of marihuana policy. The bureau shall consist of
50 three members. The members of the bureau shall be appointed by the
51 governor by and with the advice and consent of the senate. Not more than
52 two members of the bureau shall belong to the same political party. The
53 chairman of the bureau of marihuana policy heretofore appointed and
54 designated by the governor and the remaining members of such board here-
55 tofore appointed by the governor shall continue to serve as chairman and
56 members of the bureau until the expiration of the respective terms for

1 which they were appointed. Upon the expiration of such respective terms
2 the successors of such chairman and members shall be appointed to serve
3 for a term of three years each and until their successors have been
4 appointed and qualified. The commissioners shall, when performing the
5 work of the bureau, be compensated at a rate of two hundred sixty
6 dollars per day, together with an allowance for actual and necessary
7 expenses incurred in the discharge of their duties.

8 § 167. Administration of the bureau of marihuana policy. 1. The
9 bureau established in section one hundred sixty-six of this article
10 shall heretofore have the power, duty, purpose, responsibility, and
11 jurisdiction to regulate commercial marihuana activity as provided in
12 the Marihuana Regulation and Taxation Act.

13 2. The bureau shall have the exclusive authority to create, issue,
14 renew, discipline, suspend, or revoke licenses for commercial marihuana
15 activities in accordance with the state administrative procedure act.

16 (a) The bureau shall consult with the department of agriculture and
17 markets regarding rules, regulations, and licenses for the cultivation
18 of marihuana.

19 (b) The bureau shall notify the public of all licensing rules and
20 regulations promulgated pursuant to the Marihuana Regulation and Taxa-
21 tion Act, which shall include instructional materials. In addition, the
22 bureau shall hold public forums in all regions of the state, as deter-
23 mined by the department of economic development, to help the public
24 understand and navigate the licensing process.

25 (c) The bureau shall begin issuing licenses not later than eighteen
26 months following the effective date of the Marihuana Regulation and
27 Taxation Act.

28 (i) The bureau shall begin accepting applications no more than fifteen
29 months following the effective date of the Marihuana Regulation and
30 Taxation Act.

31 (ii) Pursuant to section one hundred eighty-five of this article, the
32 bureau shall notify any town, city or village of any applications for
33 license.

34 (iii) The bureau shall issue an annual license to the applicant
35 between forty-five and ninety days after receipt of an application
36 unless the bureau finds the applicant is not in compliance with regu-
37 lations enacted pursuant to section one hundred seventy-four of this
38 article or the department is notified by the relevant town, city or
39 village that the applicant is not in compliance with such regulations.

40 (d) The bureau shall have the authority to collect fees in connection
41 with activities they regulate concerning marihuana pursuant to section
42 one hundred ninety-one of this article.

43 3. (a) Not later than ten months following the enactment of this arti-
44 cle, each town, city or village may enact an ordinance or regulation
45 specifying the entity within the town, city or village that is responsi-
46 ble for processing applications submitted for a license to operate a
47 marihuana establishment within the boundaries of the town, city or
48 village and for the issuance of such licenses should the issuance by the
49 town, city or village become necessary because of a failure by the
50 bureau to adopt regulations pursuant to section one hundred seventy-four
51 of this article or because of a failure by the bureau to process and
52 issue licenses as required by subdivision two of this section.

53 (b) A town, city or village may enact ordinances or regulations, not
54 in conflict with this section or with regulations or legislation enacted
55 pursuant to this section, governing the time, place, manner and number
56 of marihuana establishment operations; establishing procedures for the

1 issuance, suspension, and revocation of a license issued by the municipi-
2 pality in accordance with paragraphs (c) and (d) of this subdivision,
3 such procedures to be subject to all requirements of the state adminis-
4 trative procedure act or any successor provision, establishing a sched-
5 ule of annual operating, licensing, and application fees for marihuana
6 establishments, provided, the application fee shall only be due if an
7 application is submitted to a town, city or village in accordance with
8 paragraph (d) of this subdivision and a licensing fee shall only be due
9 if a license is issued by a municipality in accordance with paragraph
10 (c) or (d) of this subdivision; and establishing civil penalties for
11 violation of an ordinance or regulation governing the time, place, and
12 manner of a marihuana establishment that may operate in such a town,
13 city or village. A town, city or village may prohibit the operation of
14 marihuana production facilities, marihuana processing facilities, mari-
15 huana retail stores, marihuana microbusinesses, or marihuana testing
16 facilities through the enactment of an ordinance.

17 (c) If the bureau does not issue a license to an applicant within
18 ninety days of receipt of the application filed in accordance with
19 subdivision two and does not notify the applicant of the specific reason
20 for its denial, in writing and within such time period, or if the bureau
21 has adopted regulations pursuant to section one hundred seventy-four of
22 this article but has not issued any licenses within eighteen months of
23 the effective date of this article, for any town, city or village enact-
24 ing an ordinance providing for local processing of applications, the
25 applicant may resubmit its application directly to the town, city or
26 village pursuant to paragraph (a) of this subdivision, and the town,
27 city or village may issue an annual license to the applicant. A town,
28 city or village issuing a license to an applicant shall do so within
29 ninety days of receipt of the resubmitted application unless the town,
30 city or village finds and notifies the applicant that the applicant is
31 not in compliance with the ordinances and regulations made pursuant to
32 paragraph (b) of this subdivision in effect at the time the application
33 is resubmitted and the town, city or village shall notify the bureau if
34 an annual license has been issued to the applicant. If an application is
35 submitted to a town, city or village under this paragraph, the bureau
36 shall forward to the town, city or village the application fee paid by
37 the applicant to the bureau upon request by the town, city or village. A
38 license issued by a town, city or village in accordance with this para-
39 graph shall have the same force and effect as a license issued by the
40 bureau in accordance with subdivision two of this section and the holder
41 of such license shall not be subject to regulation or enforcement by the
42 bureau during the term of that license. A subsequent or renewed license
43 may be issued under this paragraph on an annual basis only upon resub-
44 mission to the town, city or village of a new application submitted to
45 the bureau pursuant to subdivision two of this section. Nothing in this
46 paragraph shall limit such relief as may be available to an aggrieved
47 party under section four hundred one of the state administrative proce-
48 dure act or any successor provision.

49 (d) If the bureau does not adopt regulations required by section one
50 hundred seventy-four of this article, an applicant may submit an appli-
51 cation directly to a town, city or village fifteen months following the
52 effective date of this article and the town, city or village may issue
53 an annual license to the applicant. A town, city or village issuing a
54 license to an applicant shall do so within ninety days of receipt of the
55 application unless it finds and notifies the applicant that the appli-
56 cant is not in compliance with ordinances and regulations made pursuant

1 to paragraph (b) of this subdivision in effect at the time of applica-
2 tion and shall notify the bureau if an annual license has been issued to
3 the applicant. A license issued by a town, city or village in accordance
4 with this paragraph shall have the same force and effect as a license
5 issued by the bureau in accordance with subdivision two of this section
6 and the licensee shall not be subject to regulation or enforcement by
7 the bureau during the term of that license. A subsequent or renewed
8 license may be issued under this paragraph on an annual basis if the
9 bureau has not adopted regulations required by section one hundred
10 seventy-four of this article at least ninety days prior to the date upon
11 which such subsequent or renewed license would be effective or if the
12 department has adopted regulations pursuant to section one hundred
13 seventy-four of this article but has not, at least ninety days after the
14 adoption of such regulations, issued licenses pursuant to subdivision
15 two of this section.

16 4. The bureau may limit the total amount of marihuana produced in New
17 York based on the demand for marihuana and marihuana products and in an
18 effort to reduce illicit marihuana markets.

19 § 168. Authority to promulgate rules and regulations. The bureau shall
20 promulgate and implement all rules and regulations as it deems necessary
21 to carry out the requirements, purpose and intent of this article.

22 § 169. Licenses issued. The following kinds of licenses shall be
23 issued by the bureau for the manufacture, production, processing, test-
24 ing, retail sale and delivery of marihuana:

- 25 1. marihuana nursery license;
- 26 2. marihuana producer license;
- 27 3. marihuana processor license;
- 28 4. marihuana distributor license;
- 29 5. marihuana retailer license;
- 30 6. marihuana microbusiness license;
- 31 7. marihuana on-site consumption license;
- 32 8. marihuana delivery license;
- 33 9. marihuana testing license; and
- 34 10. any other type of licenses allowed by the bureau.

35 § 170. Licensing limits. 1. All licenses issued under this article
36 shall bear a clear designation indicating that the license is for
37 commercial marihuana activity as distinct from medical marihuana manu-
38 factured, produced and sold for medical use pursuant to title five-A of
39 article thirty-three of the public health law.

40 2. An owner of a marihuana retail store shall not hold a license in
41 another license category of section one hundred sixty-nine of this arti-
42 cle, shall not own or have ownership interest in an entity licensed
43 pursuant to title five-A of article thirty-three of the public health
44 law, and shall hold not more than three retail licenses.

45 3. An owner of a marihuana microbusiness shall not hold a license in
46 another license category of section one hundred sixty-nine of this arti-
47 cle, shall not own or have ownership interest in a facility licensed
48 pursuant to title five-A of article thirty-three of the public health
49 law, and shall hold not more than one microbusiness license.

50 4. An owner of a marihuana testing facility shall not hold a license
51 in another license category of section one hundred sixty-nine of this
52 article and shall not own or have ownership interest in a facility
53 licensed pursuant to title five-A of article thirty-three of the public
54 health law.

55 5. Only a marihuana retail licensee may be issued an on-site consump-
56 tion license.

6. Only a marihuana retail licensee, marihuana microbusiness licensee, or marihuana delivery licensee may be permitted to deliver marihuana directly to customers.

7. Only a marihuana producer licensee, marihuana processor licensee, marihuana microbusiness licensee, or marihuana distributor licensee may distribute marihuana and marihuana products to other licensed marihuana businesses.

8. No marihuana delivery owner may hold more than one marihuana delivery license.

9. No marihuana distributor owner may hold more than one marihuana distributor license.

10. The bureau shall issue a series of producer licenses distinguished by canopy size and type of lighting used, natural/outdoor light, indoor light, or mixed-light.

11. No marihuana producer owner may hold more than one marihuana producer and one marihuana processor license.

12. No marihuana processor owner may hold more than three marihuana processor licenses.

13. An owner of a marihuana nursery may hold a marihuana producer or marihuana processor license but shall not hold another license category of section one hundred sixty-nine of this article, shall not own or have ownership interest in a facility licensed pursuant to title five-A of article thirty-three of the public health law, and shall hold not more than one nursery license. Licensing limits imposed by subdivisions eleven and twelve of this section shall apply.

§ 171. Actions taken pursuant to a valid license are lawful. No contracts related to the operation of licenses under this chapter shall be deemed unenforceable on the basis that the actions permitted pursuant to the license are prohibited by federal law. 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:

1. Actions of a licensee, its employees, and its agents, as permitted by this chapter and consistent with rules and regulations of the bureau, pursuant to a valid license issued by the bureau.

2. Actions of those who allow property to be used by a licensee, its employees, and its agents, as permitted by this chapter and consistent with rules and regulations of the bureau, pursuant to a valid license issued by the bureau.

3. Actions of any person or entity, their employees, or their agents providing a service to a licensee or potential licensee, as permitted by this chapter and consistent with rules and regulations of the bureau, relating to the formation of a business.

4. The purchase, possession, or consumption of marihuana, as permitted by this chapter and consistent with rules and regulations of the bureau, obtained from a validly licensed retailer.

§ 172. General prohibitions and restrictions. 1. No marihuana products may be imported into or exported from New York state.

2. No person may be issued a license under section one hundred sixty-nine of this article if they have been convicted of an offense related to the functions, or duties of owning and operating a business within three years of the application date, except that if the bureau determines that the owner or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the bureau shall conduct a thorough review of the nature of the crime,

1 conviction, circumstances, and evidence of rehabilitation of the owner,
2 and shall evaluate the suitability of the owner or licensee to be issued
3 a license based on the evidence found through the review. In determining
4 which offenses are substantially related to the functions or duties of
5 owning and operating a business, the bureau shall include, but not be
6 limited to, the following:

7 (a) A felony conviction involving fraud, money laundering, forgery and
8 other unlawful conduct related to owning and operating a business.

9 (b) A felony conviction for hiring, employing, or using a minor in
10 transporting, carrying, selling, giving away, preparing for sale, or
11 peddling, any controlled substance to a minor; or selling, offering to
12 sell, furnishing, offering to furnish, administering, or giving any
13 controlled substance to a minor.

14 3. No license of any kind may be issued to a person under the age of
15 twenty-one years, nor shall any licensee employ anyone under the age of
16 twenty-one years.

17 § 173. Certain officials not to be interested in the manufacture or
18 sale of marihuana. 1. Except as otherwise provided in section one
19 hundred twenty-eight-a of this chapter, it shall be unlawful for any
20 police commissioner, police inspector, captain, sergeant, roundsman,
21 patrolman or other police official or subordinate of any police depart-
22 ment in the state, to be either directly or indirectly interested in the
23 manufacture or sale of marihuana or to offer for sale, or recommend to
24 any licensee any marihuana. A person may not be denied any license
25 granted under the provisions of sections fifty-four, fifty-five, fifty-
26 nine, sixty-three, sixty-four, seventy-nine, eighty-one, or article
27 seven of this chapter solely on the grounds of being the spouse of a
28 public servant described in this subdivision. The solicitation or recom-
29 mendation made to any licensee, to purchase any marihuana by any police
30 official or subordinate as described in this subdivision, shall be
31 presumptive evidence of the interest of such official or subordinate in
32 the manufacture or sale of marihuana.

33 2. No elective village officer shall be subject to the limitations set
34 forth in subdivision one of this section unless such elective village
35 officer shall be assigned duties directly relating to the operation or
36 management of the police department.

37 § 174. Provisions governing initial rulemaking. 1. Within two hundred
38 forty days after the effective date of this article, the bureau shall
39 perform such acts, prescribe such forms and make such rules, regulations
40 and orders as it may deem necessary or proper to fully effectuate the
41 provisions of this article.

42 2. The bureau shall promulgate necessary rules and regulations govern-
43 ing the licensing of marihuana producers, marihuana processors, marihua-
44 na retailers and marihuana retailers for consumption on-site, including:

45 (a) prescribing forms and establishing application, reinstatement, and
46 renewal fees;

47 (b) the qualifications for licensure;

48 (c) the books and records to be created and maintained by licensees,
49 the reports to be made thereon to the bureau, and inspection of the
50 books and records;

51 (d) methods of producing, processing, and packaging marihuana, mari-
52 huana-infused products, and concentrated cannabis; conditions of sanita-
53 tion, and standards of ingredients, quality, and identity of marihuana
54 products produced, processed, packaged, or sold by licensees; and

1 (e) security requirements for marihuana retailers and premises where
2 marihuana products are produced or processed, and safety protocols for
3 licensees and their employees.

4 3. The bureau shall promulgate rules and regulations that are calcu-
5 lated to:

6 (a) prevent the distribution of marihuana to persons under twenty-one
7 years of age;

8 (b) prevent the revenue from the sale of marihuana from going to
9 organized criminal enterprises and cartels;

10 (c) prevent the diversion of marihuana from this state to other
11 states;

12 (d) prevent marihuana activity that is legal under state law from
13 being used as a cover or pretext for the trafficking of other illegal
14 drugs or other illegal activity;

15 (e) prevent violence and the use of firearms in the cultivation and
16 distribution of marihuana;

17 (f) prevent impaired driving and the exacerbation of other adverse
18 public health consequences associated with the use of marihuana;

19 (g) prevent the growing of marihuana on public lands and the attendant
20 public safety and environmental dangers posed by marihuana production on
21 public lands; and

22 (h) prevent the possession and use of marihuana on federal property.

23 4. Rules and regulations promulgated by the bureau pursuant to subdi-
24 vision three of this section shall not prohibit the operation of mari-
25 huana establishments either expressly or through regulations that make
26 their operation unreasonably impracticable.

27 5. The bureau, in consultation with the department of agriculture and
28 markets and the department of environmental conservation, shall promul-
29 gate necessary rules and regulations governing the safe production of
30 marihuana, including restrictions on the use of pesticides, insecticides
31 and herbicides.

32 § 175. Provisions governing marihuana producers. 1. No producer shall
33 sell, or agree to sell or deliver in the state any marihuana products,
34 as the case may be, except in sealed containers containing quantities in
35 accordance with size standards pursuant to rules adopted by the bureau.
36 Such containers shall have affixed thereto such labels as may be
37 required by the rules of the bureau, together with all necessary New
38 York state excise tax stamps, as required by law.

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

44 3. Each producer shall keep and maintain upon the licensed premises,
45 adequate books and records of all transactions involving the producer
46 and sale of his or its products, which shall include all information
47 required by rules promulgated by the bureau. Each sale shall be recorded
48 separately on a numbered invoice, which shall have printed thereon the
49 number, the name of the licensee, the address of the licensed premises,
50 and the current license number. Such producer shall deliver to the
51 purchaser a true duplicate invoice stating the name and address of the
52 purchaser, the quantity purchased, description and the price of the
53 product, and a true, accurate and complete statement of the terms and
54 conditions on which such sale is made. Such books, records and invoices
55 shall be kept for a period of two years and shall be available for
56 inspection by any authorized representative of the bureau.

1 4. No producer shall furnish or cause to be furnished to any licensee,
2 any exterior or interior sign, printed, painted, electric or otherwise,
3 except as authorized by the bureau. The bureau may make such rules as it
4 deems necessary to carry out the purpose and intent of this subdivision.

5 § 176. Provisions governing processors. 1. No processor shall be
6 engaged in any other business on the premises to be licensed; except
7 that nothing contained in this chapter shall prevent a marihuana produc-
8 er and a marihuana processor from operating on the same premises and
9 from a person holding both licenses.

10 2. No processor shall sell, or agree to sell or deliver in the state
11 any marihuana products, except in a sealed package containing quantities
12 in accordance with size standards pursuant to rules adopted by the
13 bureau. Such containers shall have affixed thereto such labels as may be
14 required by the rules of the bureau, together with all necessary New
15 York state excise tax stamps, as required by law.

16 3. No processor shall deliver any products, except in vehicles owned
17 and operated by such processor, or hired and operated by such processor
18 from a trucking or transportation company registered with the bureau,
19 and shall only make deliveries at the licensed premises of the purchas-
20 er.

21 4. Each processor shall keep and maintain upon the licensed premises,
22 adequate books and records of all transactions involving the business
23 transacted by such processor, which shall show the amount of marihuana
24 products, purchased by such processor together with the names, license
25 numbers and places of business of the persons from whom the same was
26 purchased and the amount involved in such purchases, as well as the
27 amount of marihuana products sold by such processor together with the
28 names, addresses, and license numbers of such purchasers. Each sale
29 shall be recorded separately on a numbered invoice, which shall have
30 printed thereon the number, the name of the licensee, the address of the
31 licensed premises, and the current license number. Such processor shall
32 deliver to the purchaser a true duplicate invoice stating the name and
33 address of the purchaser, quantity purchased, description and the price
34 of the product, and a true, accurate and complete statement of the terms
35 and conditions on which such sale is made. Such books, records and
36 invoices shall be kept for a period of two years and shall be available
37 for inspection by any authorized representative of the bureau.

38 § 177. Provisions governing marihuana retailers. 1. No retail license
39 shall be granted for any premises, unless the applicant shall be the
40 owner thereof, or shall be in possession of said premises under a lease,
41 management agreement or other agreement giving the applicant control
42 over the premises, in writing, for a term not less than the license
43 period.

44 2. No premises shall be licensed to sell marihuana products, unless
45 said premises shall be located in a store, the principal entrance to
46 which shall be from the street level and located on a public thorough-
47 fare in premises which may be occupied, operated or conducted for busi-
48 ness, trade or industry or on an arcade or sub-surface thoroughfare
49 leading to a railroad terminal. There may be not more than one addi-
50 tional entrance which shall be from the street level and located on and
51 giving access to and from a public or private parking lot or parking
52 area having space for not less than five automobiles.

53 3. No marihuana retail license shall be granted for any premises which
54 a license would not be allowed to sell at retail for consumption of
55 alcohol off the premises based on its proximity to a building occupied

1 exclusively as a school, church, synagogue or other place of worship
2 pursuant to the provisions of section one hundred five of this chapter.

3 4. No marihuana retail licensee shall offer for sale any marihuana
4 products in any other container, except in the original sealed package,
5 as received from the producer, distributor or processor. Such containers
6 shall have affixed thereto such labels as may be required by the rules
7 of the bureau, together with all New York state excise tax stamps, as
8 required by law. Such containers shall not be opened nor its contents
9 consumed on the premises where sold.

10 5. No marihuana retail licensee shall sell or transfer marihuana
11 products to any person under the age of twenty-one years.

12 6. No marihuana retail licensee shall sell alcoholic beverages on the
13 same premises where marihuana products are sold.

14 7. No sign of any kind printed, painted or electric, advertising any
15 brand shall be permitted on the exterior or interior of such premises,
16 except by permission of the bureau.

17 8. No retail licensee shall deliver any marihuana products except in
18 vehicles owned and operated by such licensee, or hired and operated by
19 such licensee from a trucking or transportation company registered with
20 the bureau, and shall only make such deliveries at the premises of the
21 purchaser.

22 9. No retail licensee shall keep or permit to be kept upon the
23 licensed premises, any marihuana products in any unsealed container.

24 10. No premises licensed as a marihuana retailer shall be permitted to
25 remain open during a time when a premises licensed to sell liquor and/or
26 wine for off-premises consumption is not permitted to remain open pursu-
27 ant to the provisions of section one hundred five of this chapter.

28 11. Each marihuana retail licensee shall keep and maintain upon the
29 licensed premises, adequate books and records of all transactions
30 involving the business transacted by such licensee, which shall show the
31 amount of marihuana products, purchased by such licensee together with
32 the names, license numbers and places of business of the persons from
33 whom the same were purchased, and the amount involved in such purchases,
34 as well as the amount of marihuana products, sold by such licensee, and
35 the amount involved in each sale. Such books and records shall be avail-
36 able for inspection by any authorized representative of the bureau.

37 12. All premises licensed under this section shall be subject to
38 inspection by any peace officer described in subdivision four of section
39 2.10 of the criminal procedure law acting pursuant to his or her special
40 duties, or police officer or any duly authorized representative of the
41 bureau, during the hours when the said premises are open for the trans-
42 action of business.

43 § 178. Provisions governing marihuana on-site consumption licenses. 1.
44 No marihuana retailer or microbusiness shall be granted a marihuana
45 on-site consumption license for a premises located in whole or in part
46 inside the boundaries of any city, village or town, unless the local
47 legislative body of such city, village or town, by resolution, expressly
48 authorizes the licensing of such facilities in such city, village or
49 town. The local legislative body may direct an appropriate officer,
50 board or body of such city, village or town as the local licensing
51 authority to authorize individual marihuana facility license applica-
52 tions. In cities of one million or more residents, should the local
53 legislative body authorize such license, no marihuana retailer license
54 for consumption on-site shall be granted unless the community board
55 established pursuant to section twenty-eight hundred of the New York

1 city charter with jurisdiction over the area in which the premises will
2 be located shall also authorize such license.

3 2. No marihuana retailer or microbusiness shall be granted a marihuana
4 on-site consumption license for any premises, unless the applicant shall
5 be the owner thereof, or shall be in possession of said premises under a
6 lease, in writing, for a term not less than the license period except,
7 however, that such license may thereafter be renewed without the
8 requirement of a lease as herein provided. This subdivision shall not
9 apply to premises leased from government agencies, as defined under
10 subdivision twelve-c of section three of this chapter; provided, howev-
11 er, that the appropriate administrator of such government agency
12 provides some form of written documentation regarding the terms of occu-
13 pancy under which the applicant is leasing said premises from the
14 government agency for presentation to the bureau at the time of the
15 license application. Such documentation shall include the terms of occu-
16 pancy between the applicant and the government agency, including, but
17 not limited to, any short-term leasing agreements or written occupancy
18 agreements.

19 3. No marihuana retailer or microbusiness shall be granted a marihuana
20 on-site consumption license for any premises where a license would not
21 be allowed to sell at retail for consumption of alcohol on the premises
22 based on its proximity to a building occupied exclusively as a school,
23 church, synagogue or other place of worship pursuant to the provisions
24 of section one hundred five of this chapter.

25 4. The bureau may consider any or all of the following in determining
26 whether public convenience and advantage and the public interest will be
27 promoted by the granting of licenses and permits for a marihuana on-site
28 consumption license at a particular unlicensed location:

29 (a) The number, classes and character of licenses in proximity to the
30 location and in the particular town, city or village or subdivision
31 thereof.

32 (b) Evidence that all necessary licenses and permits have been
33 obtained from the state and all other governing bodies.

34 (c) Effect of the grant of the license on vehicular traffic and park-
35 ing in proximity to the location.

36 (d) The existing noise level at the location and any increase in noise
37 level that would be generated by the proposed premises.

38 (e) Any other factors specified by law or regulation that are relevant
39 to determine the public convenience and advantage and public interest of
40 the community.

41 5. If the bureau shall disapprove an application for a license or
42 permit, it shall state and file in its offices the reasons therefor and
43 shall notify the applicant thereof. Such applicant may thereupon apply
44 to the bureau for a review of such action in a manner to be prescribed
45 by the rules of the bureau. A hearing upon notice to the applicant shall
46 thereupon be held by the bureau or by one of its members at its office
47 most conveniently situated to the office of its duly authorized repre-
48 sentative in a manner to be prescribed in its rules; and on such hearing
49 proof may be taken by oral testimony or by affidavit relative thereto.
50 After such hearing, if the bureau confirms such disapproval, it shall
51 endorse such application accordingly and shall send notice to the appli-
52 cant of its action in such form as the bureau may prescribe. If the
53 bureau does not confirm the disapproval action it may grant such appli-
54 cation and issue such license.

55 6. No marihuana on-site consumption licensee, except persons or corpo-
56 rations operating a hotel, as defined in subdivision fourteen of section

1 three of this chapter, for exclusive use in the furnishing of room
2 service in the manner prescribed by rule or regulation of the bureau,
3 shall keep upon the licensed premises any marihuana products, except
4 those purchased from a licensed producer, and in containers approved by
5 the bureau. Such containers shall have affixed thereto such labels as
6 may be required by the rules of the bureau, together with all necessary
7 excise stamps as required by law. No marihuana retail licensee for
8 on-site consumption shall reuse, refill, tamper with, adulterate, dilute
9 or fortify the contents of any container of marihuana products as
10 received from the manufacturer or wholesaler.

11 7. No marihuana on-site consumption licensee shall sell, deliver or
12 give away, or cause or permit or procure to be sold, delivered or given
13 away any marihuana for consumption on the premises where sold in a
14 container or package containing more than one gram of marihuana.

15 8. Except where a permit to do so is obtained pursuant to section
16 405.10 of the penal law, no marihuana on-site consumption licensee shall
17 suffer, permit, or promote an event on its premises wherein any person
18 shall use, explode, or cause to explode, any fireworks or other pyro-
19 technics in a building as defined in paragraph e of subdivision one of
20 section 405.10 of the penal law, that is covered by such license or
21 possess such fireworks or pyrotechnics for such purpose. In addition to
22 any other penalty provided by law, a violation of this subdivision shall
23 constitute an adequate ground for instituting a proceeding to suspend,
24 cancel, or revoke the license of the violator in accordance with the
25 applicable procedures specified in section one hundred nineteen of this
26 chapter; provided however, if more than one licensee is participating in
27 a single event, upon approval by the bureau, only one licensee must
28 obtain such permit.

29 9. No restaurant and no premises licensed to sell marihuana products
30 for on-site consumption under paragraph (a) of subdivision six of
31 section sixty-four-a of this chapter shall be permitted to have any
32 opening or means of entrance or passageway for persons or things between
33 the licensed premises and any other room or place in the building
34 containing the licensed premises, or any adjoining or abutting premises,
35 unless ingress and egress is restricted by an employee, agent of the
36 licensee, or other approved method of controlling access to the facili-
37 ty, or unless such premises are a bona fide restaurant with such access
38 for patrons and guests from any part of such building or adjoining or
39 abutting premises as shall serve public convenience in a reasonable and
40 suitable manner; or unless such licensed premises are in a building
41 owned or operated by any town, city, village or public authority or
42 agency, in a park or other similar place of public accommodation. All
43 glass in any window or door on said licensed premises shall be clear and
44 shall not be opaque, colored, stained or frosted.

45 10. A vessel licensed to sell marihuana products for on-site consump-
46 tion shall not be permitted to sell any marihuana products, while said
47 vessel is moored to a pier or dock, except that vessels sailing on
48 established schedules shall be permitted to sell marihuana products for
49 a period of three hours prior to the regular advertised sailing time.

50 11. Each marihuana on-site consumption licensee shall keep and main-
51 tain upon the licensed premises, adequate records of all transactions
52 involving the business transacted by such licensee which shall show the
53 amount of marihuana products, in an applicable metric measurement,
54 purchased by such licensee together with the names, license numbers and
55 places of business of the persons from whom the same were purchased, the
56 amount involved in such purchases, as well as the sales of marihuana

1 products made by such licensee. The bureau is hereby authorized to
2 promulgate rules and regulations permitting an on-site licensee operat-
3 ing two or more premises separately licensed to sell marihuana products
4 for on-site consumption to inaugurate or retain in this state methods or
5 practices of centralized accounting, bookkeeping, control records,
6 reporting, billing, invoicing or payment respecting purchases, sales or
7 deliveries of marihuana products, or methods and practices of central-
8 ized receipt or storage of marihuana products within this state without
9 segregation or earmarking for any such separately licensed premises,
10 wherever such methods and practices assure the availability, at such
11 licensee's central or main office in this state, of data reasonably
12 needed for the enforcement of this chapter. Such records shall be avail-
13 able for inspection by any authorized representative of the bureau.

14 12. All retail licensed premises shall be subject to inspection by any
15 peace officer, acting pursuant to his or her special duties, or police
16 officer and by the duly authorized representatives of the bureau, during
17 the hours when the said premises are open for the transaction of busi-
18 ness.

19 13. A marihuana on-site consumption licensee shall not provide mari-
20 huana products to any person under the age of twenty-one.

21 § 179. Advertising and forms for the issuance of licenses. 1. The
22 bureau is hereby authorized to promulgate rules and regulations govern-
23 ing the advertising of marihuana producers, marihuana processors, mari-
24 huana retailers, and any marihuana related products or services.

25 2. The bureau shall promulgate explicit rules prohibiting advertising
26 that:

- 27 (a) is false, deceptive, or misleading;
- 28 (b) promotes overconsumption;
- 29 (c) depicts consumption by children or other minors;
- 30 (d) is designed in any way to appeal to children or other minors;
- 31 (e) is within two hundred feet of the perimeter of a playground, child
32 care center, public park, library or school grounds;
- 33 (f) is in public transit vehicles and stations;
- 34 (g) is in the form of an unsolicited internet pop-up; or
- 35 (h) is on publicly owned or operated property.

36 3. The bureau shall promulgate explicit rules prohibiting all market-
37 ing strategies and implementation including, but not limited to, brand-
38 ing, packaging, labeling, location of marihuana retailers and marihuana
39 microbusinesses, and advertisements that are designed to:

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

42 4. The bureau shall promulgate explicit rules requiring that:

- 43 (a) all advertisements and marketing accurately and legibly identify
44 the licensee responsible for its content; and
- 45 (b) any broadcast, cable, radio, print and digital communications
46 advertisements only be placed where the audience is reasonably expected
47 to be twenty-one years of age or older, as determined by reliable,
48 up-to-date audience composition data.

49 § 180. Packaging of marihuana products. 1. The bureau is hereby
50 authorized to promulgate rules and regulations governing the packaging
51 of marihuana products, sold or possessed for sale in New York state.

52 2. Such regulations shall include requiring that:

- 53 (a) packaging meets requirements similar to the federal "poison
54 prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;
- 55 (b) all marihuana-infused products shall have a separate packaging for
56 each serving;

1 (c) prior to delivery or sale at a retailer, marihuana and marihuana
2 products shall be labeled and placed in a resealable, child-resistant
3 package; and

4 (d) packages and labels shall not be made to be attractive to chil-
5 dren.

6 § 181. Labeling of marihuana products. 1. The bureau is hereby author-
7 ized to promulgate rules and regulations governing the labeling and
8 offering of marihuana products for sale within this state.

9 2. Such rules and regulations shall be calculated to: (a) prohibit
10 deception of the consumer; (b) afford adequate information as to quality
11 and identity of the product; and (c) achieve national uniformity in this
12 business.

13 3. The bureau may seek the assistance of the department of health when
14 necessary before promulgating rules and regulations under this section.

15 4. Such regulations shall include requiring labels warning consumers
16 of any potential impact on human health resulting from the consumption
17 of marihuana products that shall be affixed to those products when sold,
18 if such labels are deemed warranted by the bureau after consultation
19 with the department of health.

20 5. All marihuana and marihuana product labels and inserts shall
21 include the following information prominently displayed in a clear and
22 legible fashion in accordance with the requirements, including font
23 size, prescribed by the bureau or the department of health: not less
24 than 8 point font:

25 (a) manufacture date and source;

26 (b) for packages containing only dried flower, the net weight of mari-
27 huana in the package;

28 (c) identification of the source and date of cultivation, the type of
29 marihuana or marihuana product and the date of manufacturing and packag-
30 ing;

31 (d) list of pharmacologically active ingredients, including, but not
32 limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other
33 cannabinoid content, the THC and other cannabinoid amount in milligrams
34 per serving, servings per package, and the THC and other cannabinoid
35 amount in milligrams for the package total, and the potency of the mari-
36 huana or marihuana product by reference to the amount of tetrahydrocan-
37 nabinol and cannabidiol in each serving;

38 (e) for marihuana products, a list of all ingredients and disclosure
39 of nutritional information in the same manner as the federal nutritional
40 labeling requirements in 21 C.F.R. section 101.9;

41 (f) a list of any solvents, nonorganic pesticides, herbicides, and
42 fertilizers that were used in the cultivation, production, and manufac-
43 ture of such marihuana or marihuana product;

44 (g) a warning if nuts or other known allergens are used;

45 (h) information associated with the unique identifier issued by the
46 bureau of marihuana policy; and

47 (i) any other requirements set by the bureau of marihuana policy.

48 6. Only generic food names may be used to describe the ingredients in
49 edible marihuana products.

50 7. Such rules and regulations shall establish methods and procedures
51 for determining serving sizes for marihuana-infused products, active
52 cannabis concentration per serving size, and number of servings per
53 container. Such regulations shall also require a nutritional fact panel
54 that incorporates data regarding serving sizes and potency thereof.

1 8. Such rules and regulations shall require information containing the
2 license number of the marihuana producer and processor facilities where
3 the marihuana was grown and processed.

4 9. The packaging, sale, or possession by any licensee of any marihuana
5 product not labeled or offered in conformity with rules and regulations
6 promulgated in accordance with this section shall be grounds for the
7 imposition of a fine, and/or the suspension, revocation or cancellation
8 of the license.

9 § 182. Seed to sale tracking. 1. No later than fifteen months follow-
10 ing the effective date of the Marihuana Regulation and Taxation Act, the
11 bureau shall establish a seed to sale tracking program for reporting the
12 movement of marihuana and marihuana products throughout the distribution
13 chain that utilizes a unique identifier and secure packaging and is
14 capable of providing information that captures, at a minimum, all of the
15 following:

16 (a) the licensee receiving the product;

17 (b) the transaction date; and

18 (c) the producer from which the product originates, including the
19 associated unique identifier.

20 2. (a) The bureau shall create an electronic database containing the
21 electronic shipping manifests to facilitate the administration of the
22 seed to sale program tracking, which shall include, but not be limited
23 to, the following information:

24 (b) the quantity, or weight, and variety of products shipped;

25 (c) the estimated times of departure and arrival;

26 (d) the quantity, or weight, and variety of products received;

27 (e) the actual time of departure and arrival;

28 (f) a categorization of the product; and

29 (g) the license number and unique identifier issued by the bureau for
30 all licensees involved in the shipping process, including, but not
31 limited to, producer, processor, retailer, and delivery licensees.

32 3. The database shall be designed to flag irregularities for the
33 bureau to investigate.

34 § 183. Renewals of licenses and permits. 1. Each license and permit,
35 issued pursuant to this article may be renewed upon application therefor
36 by the licensee or permittee and the payment of the annual fee for such
37 license or permit as prescribed by this article. In the case of applica-
38 tions for renewals, the bureau may dispense with the requirements of
39 such statements as it deems unnecessary in view of those contained in
40 the application made for the original license or permit, but in any
41 event the submission of photographs of the licensed premises shall be
42 dispensed with, provided the applicant for such renewal shall file a
43 statement with such bureau to the effect that there has been no alter-
44 ation of such premises since the original license was issued. The
45 bureau may make such rules as may be necessary not inconsistent with
46 this chapter regarding applications for renewals of licenses and permits
47 and the time for making the same. Each applicant must submit to the
48 bureau documentation of the racial, ethnic, and gender diversity of the
49 applicant's employees and owners prior to a license or permit being
50 renewed.

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

54 § 184. Information to be provided by applicants. 1. The following
55 shall be the information required on an application for a license or
56 permit:

1 (a) A statement of identity as follows:

2 (i) If the applicant is an individual, his or her name, date and place
3 of birth, citizenship, permanent home address, telephone number and
4 social security number, as well as any other names by which he or she
5 has conducted a business at any time.

6 (ii) If the applicant is a corporation or a limited liability corpo-
7 ration, the corporate name of the applicant, its place of incorporation,
8 its main business address (and if such main business address is not
9 within the state, the address of its main place of business within the
10 state), other names by which it has been known or has conducted business
11 at any time, its telephone number, its federal employer identification
12 number, and the names, ages, citizenship, and permanent home addresses
13 of its directors, officers and its shareholders (except that if there be
14 more than ten shareholders then those shareholders holding ten percent
15 or more of any class of its shares).

16 (iii) If the applicant is a partnership, its name, its main business
17 address (and if such main business address is not within the state, the
18 address of its main place of business within the state), other names by
19 which it has been known or has conducted business at any time, its tele-
20 phone number, its federal employer identification number, and the names,
21 ages, citizenship, and permanent home addresses of each of its partners.

22 (b) A statement identifying the street and number of the premises to
23 be licensed, if the premises has a street and number, and otherwise such
24 description as will reasonably indicate the town, city or village there-
25 of; photographs, drawings or other items related to the appearance of
26 the interior or exterior of such premises, and a floor plan of the inte-
27 rior, shall be required. The applicant shall also state the nature of
28 his or her interest in the premises; and the name of any other person
29 interested as a partner, joint venturer, investor or lender with the
30 applicant either in the premises or in the business to be licensed.

31 (c) A description of any other marijuana license or permit under this
32 article, within the past ten years, the applicant (including any offi-
33 cers, directors, shareholders or partners listed in the statement of
34 identity under paragraph (a) of this subdivision or the spouse of any
35 such person) or the applicant's spouse held or applied for.

36 (d) A description of the applicant's plan to ensure diversity among
37 the applicant's employees, including strategies for ensuring:

38 (i) gender diversity;

39 (ii) racial and ethnic diversity that reflects the demographics within
40 the town, city or village in which the applicant's proposed business
41 will be located; and

42 (iii) that persons with prior criminal convictions are not barred from
43 employment.

44 (e) For an applicant with more than twenty-five employees, a statement
45 that the applicant has entered into a labor peace agreement with a bona-
46 fide labor organization that is actively engaged in representing or
47 attempting to represent the applicant's employees. The maintenance of
48 such a labor peace agreement shall be an ongoing material condition of
49 certification.

50 (f) A statement that the location and layout of the premises to be
51 licensed does not violate any requirement of this chapter relating to
52 location and layout of licensed premises, with a copy of the certificate
53 of occupancy for the premises.

54 (g) A statement that the applicant has control of the premises to be
55 licensed by ownership of a fee interest or via a leasehold, management
56 agreement, or other agreement giving the applicant control over the

1 premises, with a term at least as long as the license for which the
2 application is being made, or by a binding contract to acquire the same
3 and a statement of identity under paragraph (a) of this subdivision for
4 the lessor of any leasehold, manager of any management agreement, or
5 other agreement giving the applicant control over the premises, with a
6 copy of the lease, contract, management agreement, or other agreement
7 giving the applicant control over the food and beverage at the premises,
8 or deed evidencing fee ownership of the premises.

9 (h) A financial statement adequate to show all persons who, directly
10 or indirectly have an economic interest in the establishment or acquisi-
11 tion of the business for which the license or permit application is
12 being made, to identify the sources of funds to be applied in such
13 establishment or acquisition, and to describe the terms and conditions
14 governing such establishment with copies of such financial documents as
15 the bureau may reasonably require.

16 (i) The fingerprints of the applicants. Fingerprints submitted by the
17 applicants shall be transmitted to the division of criminal justice
18 services and may be submitted to the federal bureau of investigation for
19 state and national criminal history record checks.

20 2. All license or permit applications shall be signed by the applicant
21 (if an individual), by a managing partner (if a limited liability corpo-
22 ration), by an officer (if a corporation), or by all partners (if a
23 partnership). Each person signing such application shall verify it or
24 affirm it as true under the penalties of perjury.

25 3. All license or permit applications shall be accompanied by a check,
26 draft or other forms of payment as the bureau may require or authorize
27 in the amount required by this article for such license or permit.

28 4. If there be any change, after the filing of the application or the
29 granting of a license, in any of the facts required to be set forth in
30 such application, a supplemental statement giving notice of such change,
31 cost and source of money involved in the change, duly verified, shall be
32 filed with the bureau within ten days after such change. Failure to do
33 so shall, if willful and deliberate, be cause for revocation of the
34 license.

35 5. In giving any notice, or taking any action in reference to a licen-
36 see of a licensed premises, the bureau may rely upon the information
37 furnished in such application and in any supplemental statement
38 connected therewith, and such information may be presumed to be correct,
39 and shall be binding upon a licensee or licensed premises as if correct.
40 All information required to be furnished in such application or supple-
41 mental statements shall be deemed material in any prosecution for perju-
42 ry, any proceeding to revoke, cancel or suspend any license, and in the
43 bureau's determination to approve or deny the license.

44 6. The bureau may in its discretion waive the submission of any cate-
45 gory of information described in this section for any category of
46 license or permit, provided that it shall not be, except for paragraphs
47 (a) and (d) of subdivision one of this section, permitted to waive the
48 requirement for submission of any such category of information solely
49 for an individual applicant or applicants.

50 § 185. Notification to towns, cities or villages. 1. Not less than
51 thirty days before filing any of the following applications, an appli-
52 cant shall notify the town, city or village in which the premises is
53 located of such applicant's intent to file such an application for a:

54 (a) marihuana producer license;

55 (b) marihuana processor license;

56 (c) marihuana microbusiness license;

- (d) marihuana retailer license;
- (e) marihuana retailer license for on-site consumption;
- (f) marihuana delivery license;
- (g) marihuana testing license; and/or
- (h) any other type of licenses allowed by the bureau.

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 town, city or village; 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. 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;

(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; and

(c) for a partnership, a change of eighty percent or more of the partners, or a transfer of eighty percent or more of ownership interest in said partnership, or an existing partner obtaining a cumulative of eighty percent or more of the ownership interest in said company.

4. Such notification shall be made in such form as shall be prescribed by the rules of the bureau.

5. A town, city or village 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 bureau makes its determination to grant or deny the application.

6. Such notification shall be made by: certified mail, return receipt requested; overnight delivery service with proof of mailing; or personal service upon the offices of the clerk or community board.

7. The bureau shall require such notification to be on a standardized form that can be obtained on the internet or from the bureau 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;

1 (g) if the establishment is a transfer or previously licensed prem-
2 ises, the name of the old establishment and such establishment's license
3 serial number;

4 (h) in the case of a renewal or alteration application, the license
5 serial number of the applicant; and

6 (i) the type of license.

7 § 186. Licenses, publication, general provisions. 1. The various types
8 of licenses issued pursuant to this article shall be distinctive in
9 color and design so as to be readily distinguishable from each other.

10 2. No license shall be transferable or assignable except that notwith-
11 standing any other provision of law, the license of a sole proprietor
12 converting to corporate form, where such proprietor becomes the sole
13 stockholder and only officer and director of such new corporation, may
14 be transferred to the subject corporation if all requirements of this
15 chapter remain the same with respect to such license as transferred and,
16 further, the licensee shall transmit to the bureau, within ten days of
17 the transfer of license allowable under this subdivision, on a form
18 prescribed by the bureau, notification of the transfer of such license.

19 3. No license shall be pledged or deposited as collateral security for
20 any loan or upon any other condition; and any such pledge or deposit,
21 and any contract providing therefor, shall be void.

22 4. Licenses issued under this article shall contain, in addition to
23 any further information or material to be prescribed by the rules of the
24 bureau, the following information: (a) name of person to whom license is
25 issued; (b) kind of license and what kind of traffic in marihuana is
26 thereby permitted; (c) description by street and number, or otherwise,
27 of licensed premises; and (d) a statement in substance that such license
28 shall not be deemed a property or vested right, and that it may be
29 revoked at any time pursuant to law.

30 5. There shall be printed and furnished by the bureau to each licensee
31 a statement of the causes for which licenses may be revoked. Such state-
32 ment shall be prepared by the bureau and delivered to the licensee with
33 his or her license or as soon thereafter as may be practicable. Any
34 amendments thereto shall also be sent by the bureau to all licensees as
35 soon as may be practicable after such amendments. Failure to send such
36 statements or changes therein, or failure to receive the same, or any
37 misstatement or error contained in such statements or amendments shall,
38 however, not be an excuse or justification for any violation of law, or
39 prevent, or remit, or decrease any penalty or forfeiture therefor.

40 6. Before commencing or doing any business for the time for which a
41 license has been issued said license shall be enclosed in a suitable
42 wood or metal frame having a clear glass space and a substantial wood or
43 metal back so that the whole of said license may be seen therein, and
44 shall be posted up and at all times displayed in a conspicuous place in
45 the room where such business is carried on, so that all persons visiting
46 such place may readily see the same. It shall be unlawful for any person
47 holding a license to post such license or to permit such license to be
48 posted upon premises other than the premises licensed, or upon premises
49 where traffic in marihuana is being carried on by any person other than
50 the licensee, or knowingly to deface, destroy or alter any such license
51 in any respect. Whenever a license shall be lost or destroyed without
52 fault on the part of the licensee or his or her agents or employees, a
53 duplicate license in lieu thereof may be issued by the bureau in its
54 discretion and in accordance with such rules and regulations and the
55 payment of such fees, not exceeding five dollars, as it may prescribe.

1 § 187. Revocation of licenses for cause. 1. Any license or permit
2 issued pursuant to this article may be revoked, cancelled, suspended
3 and/or subjected to the imposition of a civil penalty for cause, and
4 must be revoked for the following causes:

5 (a) Conviction of the licensee, permittee or his or her agent or
6 employee for selling any illegal marihuana or marihuana products on the
7 premises licensed.

8 (b) For transferring, assigning or hypothecating a license or permit.

9 2. Notwithstanding the issuance of a license or permit by way of
10 renewal, the bureau may revoke, cancel or suspend such license or permit
11 and/or may impose a civil penalty against any holder of such license or
12 permit, as prescribed by this section and section one hundred nineteen
13 of this chapter, for causes or violations occurring during the license
14 period immediately preceding the issuance of such license or permit, and
15 may recover, as provided in section one hundred twelve of this chapter,
16 the penal sum of the bond on file during said period.

17 3. As used in this section, the term "for cause" shall also include
18 the existence of a sustained and continuing pattern of noise, disturb-
19 ance, misconduct, or disorder on or about the licensed premises, related
20 to the operation of the premises or the conduct of its patrons, which
21 adversely affects the health, welfare or safety of the inhabitants of
22 the area in which such licensed premises are located.

23 4. The existence of a sustained and continuing pattern of noise,
24 disturbance, misconduct, or disorder on or about the licensed premises,
25 related to the operation of the premises or the conduct of its patrons,
26 will be presumed upon the sixth incident reported to the bureau by a law
27 enforcement agency of noise or disturbance or misconduct or disorder on
28 or about the licensed premises or related to the operation of the prem-
29 ises or the conduct of its patrons, in any sixty day period, absent
30 clear and convincing evidence of either fraudulent intent on the part of
31 any complainant or a factual error with respect to the content of any
32 report concerning such complaint relied upon by the bureau.

33 § 188. Procedure for revocation or cancellation. 1. Any license or
34 permit issued by the bureau pursuant to this article may be revoked,
35 cancelled or suspended and/or be subjected to the imposition of a mone-
36 tary penalty in the manner prescribed by this section.

37 2. The bureau may on its own initiative or on complaint of any person
38 institute proceedings to revoke, cancel or suspend any retail license
39 and may impose a civil penalty against the licensee after a hearing at
40 which the licensee shall be given an opportunity to be heard. Such hear-
41 ing shall be held in such manner and upon such notice as may be
42 prescribed by the rules of the bureau.

43 § 189. Decisions of the bureau of marihuana policy and review by the
44 courts. Provisions of sections one hundred twenty, one hundred twenty-
45 one and one hundred twenty-four of this chapter shall apply to marihuana
46 licenses issued under this article.

47 § 190. Minority and women-owned businesses and incubator program. The
48 bureau shall:

49 1. Implement a social equity plan and actively promote racial, ethnic,
50 and gender diversity when issuing licenses for marihuana related activ-
51 ities, including by prioritizing consideration of applications by appli-
52 cants who qualify as a minority and women-owned business. Such quali-
53 fications shall be determined by the bureau.

54 2. The bureau shall create a social equity plan to promote diversity
55 in ownership and employment in the marihuana industry and ensure inclu-
56 sion of: (a) minority-owned businesses; (b) women-owned businesses; and

1 (c) minority and women-owned businesses, as defined in subdivision five
2 of this section.

3 3. The social equity plan shall consider additional criteria in its
4 licensing determinations. Under the social equity plan, extra weight
5 shall be given to applications that demonstrate that an applicant:

6 (a) is a member of a community group that has been disproportionately
7 impacted by the enforcement of marihuana prohibition;

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

10 (c) was convicted of a marihuana-related offense prior to the effec-
11 tive date of this bill.

12 4. The bureau shall also create an incubator program to provide direct
13 support to social equity applicants after they have been granted
14 licenses. The program shall provide direct support in the form of coun-
15 seling services, education, small business coaching, and compliance
16 assistance.

17 5. For the purposes of this section, the following definitions shall
18 apply:

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

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

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

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

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

31 (v) an enterprise that is a small business.

32 (b) "minority group member" shall mean a United States citizen or
33 permanent resident alien who is and can demonstrate membership in one of
34 the following groups:

35 (i) black persons having origins in any of the black african racial
36 groups;

37 (ii) hispanic persons of mexican, puerto rican, dominican, cuban,
38 central or south american of either indian or hispanic origin, regard-
39 less of race;

40 (iii) native american or alaskan native persons having origins in any
41 of the original peoples of north america;

42 (iv) asian and pacific islander persons having origins in any of the
43 far east countries, south east asia, the indian subcontinent or the
44 pacific islands.

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

48 (i) at least fifty-one percent owned by one or more United States
49 citizens or permanent resident aliens who are women;

50 (ii) an enterprise in which the ownership interest of such women is
51 real, substantial and continuing;

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

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

1 (v) an enterprise that is a small business pursuant to subdivision
2 twenty of this section.

3 (d) a firm owned by a minority group member who is also a woman may be
4 defined as a minority-owned business, a women-owned business, or both.

5 6. The bureau shall actively promote applicants that foster racial,
6 ethnic, and gender diversity in their workforce.

7 7. Licenses issued to minority and women-owned businesses or under the
8 social equity plan shall not be transferable except to qualified minori-
9 ty and women-owned businesses or social equity applicants.

10 8. The bureau shall collect demographic data on owners and employees
11 in the marihuana industry and shall annually publish such data.

12 § 191. Disposition of moneys received for license fees. The bureau
13 shall establish a scale of application, licensing, and renewal fees,
14 based upon the cost of enforcing this article and the size of the mari-
15 huana business being licensed, as follows:

16 1. Each licensing authority shall charge each licensee a licensure and
17 renewal fee, as applicable. The licensure and renewal fee shall be
18 calculated to cover the costs of administering this article. The licen-
19 sure fee may vary depending upon the varying costs associated with
20 administering the various regulatory requirements of this article as
21 they relate to the nature and scope of the different licensure activ-
22 ities, but shall not exceed the reasonable regulatory costs to the
23 licensing authority.

24 2. The total fees assessed pursuant to this article shall be set at an
25 amount that will fairly and proportionately generate sufficient total
26 revenue to fully cover the total costs of administering this article.

27 3. All license fees shall be set on a scaled basis by the bureau,
28 dependent on the size of the business.

29 4. The bureau shall deposit all fees collected in the New York state
30 marihuana revenue fund established pursuant to section ninety-nine-ff of
31 the state finance law.

32 § 192. Persons forbidden to traffic in marihuana. 1. The following
33 persons are forbidden to traffic in marihuana:

34 (a) A person under the age of twenty-one years.

35 (b) A person who is not a citizen of the United States or an alien
36 lawfully admitted for permanent residence in the United States.

37 (c) A co-partnership or a corporation, unless each member of the part-
38 nership, or each of the principal officers and directors of the corpo-
39 ration, is a citizen of the United States or an alien lawfully admitted
40 for permanent residence in the United States, not less than twenty-one
41 years of age.

42 (d) (i) A person who shall have had any license issued under this
43 chapter revoked for cause, until the expiration of two years from the
44 date of such revocation.

45 (ii) A person not licensed under the provisions of this chapter, who
46 has been convicted of a violation of this chapter, until the expiration
47 of two years from the date of such conviction.

48 (e) A corporation or co-partnership, if any officer and director or
49 any partner, while not licensed under the provisions of this chapter,
50 has been convicted of a violation of this chapter, or has had a license
51 issued under this chapter revoked for cause, until the expiration of two
52 years from the date of such conviction or revocation.

53 2. An applicant shall not be denied a license under this article based
54 solely on a conviction for a violation of article two hundred twenty or
55 section 240.36 of the penal law, prior to the date article two hundred
56 twenty-one of the penal law took effect, or a conviction for a violation

1 of article two hundred twenty-one of the penal law after the effective
2 date of this article.

3 § 193. Surrender of license; notice to police officials. Within three
4 days after a license shall have been revoked pursuant to this article,
5 notice thereof shall be given to the licensee by mailing such notice
6 addressed to him at the premises licensed. Notice shall also be mailed
7 to the owner of the premises licensed. The holder of such license shall
8 thereupon surrender same to the bureau. The mailing thereof by the
9 licensee to the bureau by registered mail or insured parcel post shall
10 be deemed sufficient compliance with this section. The bureau, imme-
11 diately upon giving notice of revocation, shall serve a written notice
12 thereof upon the commissioner of police, chief of police or chief police
13 officer of the city or village in which the premises for which the
14 revoked license was issued is situated, or upon the sheriff of the coun-
15 ty or a constable of the town in case the license was issued for prem-
16 ises situated in a town and not within any city or village. Such notice
17 shall include a statement of the number of such license, the name and
18 place of residence of the holder thereof, the location of the licensed
19 premises, and the date when such license was revoked. In case such
20 license be not forthwith surrendered, the bureau shall issue a written
21 demand for the surrender of such license and deliver said demand to the
22 sheriff of the county in which the licensed premises are located, or to
23 any representative of the bureau, and said sheriff or representative
24 shall immediately take possession of such license and return the same to
25 the bureau.

26 § 194. Protections for the use of marihuana. Individuals and licensed
27 entities shall not be subject to arrest, prosecution, or penalty in any
28 manner, or denied any right or privilege, including but not limited to
29 civil liability or disciplinary action by a business or occupational or
30 professional licensing board or bureau, solely for conduct permitted
31 under this article. For the avoidance of doubt, the appellate division
32 of the supreme court of the state of New York, and any disciplinary or
33 character and fitness committees established by them are occupational
34 and professional licensing boards within the meaning of this section.
35 State or local law enforcement agencies shall not cooperate with or
36 provide assistance to the government of the United States or any agency
37 thereof in enforcing the Federal Controlled Substances Act, 21, U.S.C.
38 et seq., solely for actions consistent with this chapter, except as
39 pursuant to a valid court order.

40 § 195. Discrimination protections for the use of marihuana or medical
41 marihuana. 1. No school or landlord may refuse to enroll or lease to and
42 may not otherwise penalize a person solely for conduct allowed under
43 sections 221.05 and 221.05-a of the penal law or title five-A of article
44 thirty-three of the public health law, except as exempted:

45 (a) If failing to do so would cause the school or landlord to lose a
46 monetary or licensing related benefit under federal law or regulations;

47 (b) If the institution has adopted a code of conduct prohibiting mari-
48 huana use on the basis of religious belief;

49 (c) If a property is registered with the New York Smoke-Free Housing
50 Registry, it is not required to permit the smoking of marihuana products
51 on its premises.

52 2. For the purposes of medical care, including organ transplants, a
53 registered qualifying patient's authorized use of medical marihuana must
54 be considered the equivalent of the use of any other medication under
55 the direction of a practitioner and does not constitute the use of an

1 illicit substance or otherwise disqualify a registered qualifying
2 patient from medical care.

3 3. No person may be denied custody of or visitation or parenting time
4 with a minor, and there is no presumption of neglect or child endanger-
5 ment for conduct allowed under sections 221.05 and 221.05-a of the penal
6 law, unless the person's behavior creates an unreasonable danger to the
7 safety of the minor as established by clear and convincing evidence. For
8 the purposes of this section, an "unreasonable danger" determination
9 cannot be based solely on whether, when, and how often a person uses
10 marihuana without separate evidence of harm.

11 § 196. Employment protections. 1. Unless an employer establishes by a
12 preponderance of the evidence that the lawful use of marihuana has
13 impaired the employee's ability to perform the employee's job responsi-
14 bilities, it shall be unlawful to take any adverse employment action
15 against an employee based on either:

16 (a) conduct allowed under sections 221.05 and 221.05-a of the penal
17 law; or

18 (b) the employee's positive drug test for marihuana components or
19 metabolites.

20 2. For the purposes of this section, an employer may consider an
21 employee's ability to perform the employee's job responsibilities to be
22 impaired when the employee manifests specific articulable symptoms while
23 working that decrease or lessen the employee's performance of the duties
24 or tasks of the employee's job position.

25 3. Nothing in this section shall restrict an employer's ability to
26 prohibit or take adverse employment action for the possession or use of
27 intoxicating substances during work hours, or require an employer to
28 commit any act that would cause the employer to be in violation of
29 federal law, or that would result in the loss of a federal contract or
30 federal funding.

31 4. As used in this section, "adverse employment action" means refusing
32 to hire or employ, barring or discharging from employment, requiring a
33 person to retire from employment, or discriminating against in compen-
34 sation or in terms, conditions, or privileges of employment.

35 § 197. Protections for persons under state supervision. A person
36 currently under parole, probation or other state supervision, or
37 released on bail awaiting trial may not be punished or otherwise penal-
38 ized for conduct allowed under sections 221.05 and 221.05-a of the penal
39 law.

40 § 198. Professional and medical record keeping. Any professional
41 providing services in connection with a licensed or potentially licensed
42 business under this chapter, or in connection with other conduct permit-
43 ted under this chapter, and any medical professional providing medical
44 care to a patient, may agree with their client or patient to maintain no
45 record, or any reduced level of record keeping that professional and
46 client or patient may agree. In case of such agreement, the profes-
47 sional's only obligation shall be to keep such records as agreed, and to
48 keep a record of the agreement. Such reduced record keeping is conduct
49 permitted under this chapter, and shall attract the protections of
50 section one hundred ninety-four of this article.

51 § 32. The state finance law is amended by adding three new sections
52 99-ff, 99-gg and 99-hh to read as follows:

53 § 99-ff. New York state marihuana revenue fund. 1. There is hereby
54 established in the joint custody of the state comptroller and the
55 commissioner of taxation and finance a special fund to be known as the
56 "New York state marihuana revenue fund".

2. Such fund shall consist of all revenues received by the department of taxation and finance, pursuant to the provisions of article eighteen-A of the tax law and all other moneys appropriated thereto from any other fund or source pursuant to law. Nothing contained in this section shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

3. The moneys in such fund shall be expended for the following purposes:

(a) Reasonable costs incurred by the department of taxation and finance for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed four percent of tax revenues received.

(b) Reasonable costs incurred by the bureau of marihuana policy for implementing, administering, and enforcing the marihuana regulation and taxation act to the extent those costs are not reimbursed pursuant to sections one hundred eighty-nine and one hundred ninety of article eleven of the alcoholic beverage control law. This paragraph shall remain operative through the two thousand twenty-four -- two thousand twenty-five fiscal year.

(c) Beginning with the two thousand twenty-one -- two thousand twenty-two fiscal year and continuing through the two thousand twenty-three -- two thousand twenty-four fiscal year, the commissioner of taxation and finance shall annually disburse one million dollars to the marihuana microbusiness and marihuana license revolving loan fund established pursuant to section ninety-nine-ii of the state finance law.

(d) Beginning with the two thousand twenty-one -- two thousand twenty-two fiscal year and continuing through the two thousand thirty -- two thousand thirty-one fiscal year, the commissioner of taxation and finance shall annually disburse the following sums for the purposes of data collection and reporting:

(1) Seven hundred fifty thousand dollars to the bureau of marihuana policy to track and report data related to the licensing of marihuana businesses, including the geographic location, structure, and function of licensed marihuana businesses, and demographic data, including race, ethnicity, and gender, of license holders. The bureau of marihuana policy shall publish reports on its findings annually and shall make the reports available to the public.

(2) Seven hundred fifty thousand dollars to the department of criminal justice services to track and report data related to any infractions, violations, or criminal convictions that occur under any of the remaining marihuana statutes. The department of criminal justice services shall publish reports on its findings annually and shall make the reports available to the public.

(3) One million dollars to the state university of New York to research and evaluate the implementation and effect of the marihuana regulation and taxation act. No more than four percent of these monies may be used for expenses related to administrative costs of conducting such research, and to, if appropriate, make recommendations to the legislature and governor regarding possible amendments to the marihuana regulation and taxation act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

1 (A) the impacts on public health, including health costs associated
2 with marihuana use, as well as whether marihuana use is associated with
3 an increase or decrease in use of alcohol or other drugs;

4 (B) the impact of treatment for cannabis use disorder and the effec-
5 tiveness of different treatment programs;

6 (C) public safety issues related to marihuana use, including studying
7 the effectiveness of the packaging and labeling requirements and adver-
8 tising and marketing restrictions contained in the act at preventing
9 underage access to and use of marihuana and marihuana products, and
10 studying the health-related effects among users of varying potency
11 levels of marihuana and marihuana products;

12 (D) marihuana use rates, maladaptive use rates for adults and youth,
13 and diagnosis rates of marihuana-related substance use disorders;

14 (E) marihuana market prices, illicit market prices, tax structures and
15 rates, including an evaluation of how to best tax marihuana based on
16 potency, and the structure and function of licensed marihuana busi-
17 nesses;

18 (F) whether additional protections are needed to prevent unlawful
19 monopolies or anti-competitive behavior from occurring in the nonmedical
20 marihuana industry and, if so, recommendations as to the most effective
21 measures for preventing such behavior;

22 (G) the economic impacts in the private and public sectors, including
23 but not necessarily limited to, job creation, workplace safety, reven-
24 ues, taxes generated for state and local budgets, and criminal justice
25 impacts, including, but not necessarily limited to, impacts on law
26 enforcement and public resources, short and long term consequences of
27 involvement in the criminal justice system, and state and local govern-
28 ment agency administrative costs and revenue;

29 (H) whether the regulatory agencies tasked with implementing and
30 enforcing the marihuana regulation and taxation act are doing so
31 consistent with the purposes of the act, and whether different agencies
32 might do so more effectively; and

33 (I) any environmental issues related to marihuana production and the
34 criminal prohibition of marihuana production.

35 4. After the dispersal of moneys pursuant to subdivision three of this
36 section, the remaining moneys in the fund deposited during the prior
37 fiscal year shall be disbursed into the state lottery fund and two addi-
38 tional sub-funds created within the marihuana revenue fund known as the
39 drug treatment and public education fund and the community grants rein-
40 vestment fund, as follows:

41 (a) twenty-five percent shall be deposited in the state lottery fund
42 established by section ninety-two-c of this article; provided that such
43 moneys shall be distributed to the department of education in accordance
44 with subdivisions two and four of section ninety-two-c of this article
45 and shall not be utilized for the purposes of subdivision three of such
46 section. Monies allocated by this article may enhance, but shall not
47 supplant, existing dedicated funds to the department of education;

48 (b) twenty-five percent shall be deposited in the drug treatment and
49 public education fund established by section ninety-nine-gg of this
50 article; and

51 (c) fifty percent shall be deposited in the community grants reinvest-
52 ment fund established by section ninety-nine-hh of this article.

53 5. On or before the first day of February each year, the commissioner
54 of taxation and finance shall provide a written report to the temporary
55 president of the senate, speaker of the assembly, chair of the senate
56 finance committee, chair of the assembly ways and means committee, the

1 state comptroller and the public. Such report shall detail how the
2 moneys of the fund were utilized during the preceding calendar year, and
3 shall include:

4 (i) the amount of money dispersed from the fund and the award process
5 used for such disbursements;

6 (ii) recipients of awards from the fund;

7 (iii) the amount awarded to each recipient of an award from the fund;

8 (iv) the purposes for which such awards were granted; and

9 (v) a summary financial plan for such monies which shall include esti-
10 mates of all receipts and all disbursements for the current and succeed-
11 ing fiscal years, along with the actual results from the prior fiscal
12 year.

13 6. Moneys shall be payable directly from the marihuana revenue fund to
14 the department.

15 § 99-gg. New York state drug treatment public education fund. 1.
16 There is hereby established in the joint custody of the state comp-
17 troller and the commissioner of taxation and finance a special fund to
18 be known as the "New York state drug treatment public education fund".

19 2. Such fund shall consist of revenues received pursuant to the
20 provisions of section ninety-nine-ff of this article and all other
21 moneys appropriated thereto from any other fund or source pursuant to
22 law. Nothing contained in this section shall prevent the state from
23 receiving grants, gifts or bequests for the purposes of the fund as
24 defined in this section and depositing them into the fund according to
25 law.

26 3. The moneys in such fund shall be expended to the commissioner of
27 the office of alcoholism and substance abuse and disbursed in consulta-
28 tion with the commissioner of health for the following purposes:

29 (a) To develop and implement a youth-focused public health education
30 and prevention campaign, including school-based prevention, early inter-
31 vention, and health care services and programs to reduce the risk of
32 marihuana and other substance use by school-aged children;

33 (b) To develop and implement a statewide public health campaign
34 focused on the health effects of marihuana and legal use, including an
35 ongoing education and prevention campaign that educates the general
36 public, including parents, consumers and retailers, on the legal use of
37 marihuana, the importance of preventing youth access, the importance of
38 safe storage and preventing secondhand marihuana smoke exposure, infor-
39 mation for pregnant or breastfeeding women, and the overconsumption of
40 edibles;

41 (c) To provide substance use disorder treatment programs for youth and
42 adults, with an emphasis on programs that are culturally and gender
43 competent, trauma-informed, evidence-based and provide a continuum of
44 care that includes screening and assessment (substance use disorder as
45 well as mental health), early intervention, active treatment, family
46 involvement, case management, overdose prevention, prevention of commu-
47 nicable diseases related to substance use, relapse management for
48 substance use and other co-occurring behavioral health disorders, voca-
49 tional services, literacy services, parenting classes, family therapy
50 and counseling services, medication-assisted treatments, psychiatric
51 medication and psychotherapy; and

52 (d) To evaluate the programs being funded to determine their effec-
53 tiveness.

54 4. On or before the first day of February each year, the commissioner
55 of the office of alcoholism and substance abuse services shall provide a
56 written report to the temporary president of the senate, speaker of the

1 assembly, chair of the senate finance committee, chair of the assembly
2 ways and means committee, chair of the senate committee on alcoholism
3 and drug abuse, chair of the assembly alcoholism and drug abuse commit-
4 tee, the state comptroller and the public. Such report shall detail how
5 the moneys of the fund were utilized during the preceding calendar year,
6 and shall include:

7 (a) the amount of money dispersed from the fund and the award process
8 used for such disbursements;

9 (b) recipients of awards from the fund;

10 (c) the amount awarded to each recipient of an award from the fund;

11 (d) the purposes for which such awards were granted; and

12 (e) a summary financial plan for such monies which shall include esti-
13 mates of all receipts and all disbursements for the current and succeed-
14 ing fiscal years, along with the actual results from the prior fiscal
15 year.

16 5. Moneys shall be payable from the fund on the audit and warrant of
17 the comptroller on vouchers approved and certified by the commissioner
18 of education.

19 § 99-hh. New York state community grants reinvestment fund. 1. There
20 is hereby established in the joint custody of the state comptroller and
21 the commissioner of taxation and finance a special fund to be known as
22 the "New York state community grants reinvestment fund".

23 2. Such fund shall consist of all revenues received pursuant to the
24 provisions of section ninety-nine-ff of this article and all other
25 moneys appropriated thereto from any other fund or source pursuant to
26 law. Nothing contained in this section shall prevent the state from
27 receiving grants, gifts or bequests for the purposes of the fund as
28 defined in this section and depositing them into the fund according to
29 law.

30 3. The fund shall be governed and administered by an executive steer-
31 ing committee of thirteen members established by the office of children
32 and family services and including additional representatives from the
33 labor department, and the health department appointed by the governor
34 and a representative of the education department appointed by the board
35 of regents. In addition, the majority and minority leaders of the senate
36 and assembly shall each appoint one member to the steering committee,
37 the comptroller shall appoint three additional members, and the attorney
38 general shall appoint two additional members from relevant local govern-
39 ment entities and community-based organizations. Every effort should be
40 made to ensure a balanced and diverse committee, which shall have exper-
41 tise in job placement, homelessness and housing, behavioral health and
42 substance use disorder treatment, and effective rehabilitative treatment
43 for adults and juveniles, and shall include representatives of organiza-
44 tions serving communities impacted by past federal and state drug poli-
45 cies.

46 4. The moneys in such fund shall be expended by the executive steering
47 committee to qualified community-based nonprofit organizations for the
48 purpose of reinvesting in communities disproportionately affected by
49 past federal and state drug policies. The grants from this program shall
50 be used to support job placement, job skills services, adult education,
51 mental health treatment, substance use disorder treatment, system navi-
52 gation services, legal services to address barriers to reentry, and
53 linkages to medical care, women's health services and other community-
54 based supportive services.

55 5. On or before the first day of February each year, the commissioner
56 of the office of children and family services shall provide a written

1 report to the temporary president of the senate, speaker of the assem-
2 bly, chair of the senate finance committee, chair of the assembly ways
3 and means committee, chair of the senate committee on children and fami-
4 lies, chair of the assembly children and families committee, chair of
5 the senate committee on labor, chair of the assembly labor committee,
6 chair of the senate committee on health, chair of the assembly health
7 committee, chair of the senate committee on education, chair of the
8 assembly education committee, the state comptroller and the public. Such
9 report shall detail how the monies of the fund were utilized during the
10 preceding calendar year, and shall include:

11 (a) the amount of money dispersed from the fund and the award process
12 used for such disbursements;

13 (b) recipients of awards from the fund;

14 (c) the amount awarded to each recipient of an award from the fund;

15 (d) the purposes for which such awards were granted; and

16 (e) a summary financial plan for such monies which shall include esti-
17 mates of all receipts and all disbursements for the current and succeed-
18 ing fiscal years, along with the actual results from the prior fiscal
19 year.

20 6. Moneys shall be payable from the fund on the audit and warrant of
21 the comptroller on vouchers approved and certified by the commissioner
22 of education.

23 § 33. The tax law is amended by adding a new article 18-A to read as
24 follows:

25 ARTICLE 18-A

26 PROVISIONS RELATING TO MARIHUANA

27 Section 446. Definitions.

28 447. Taxes imposed.

29 447-a. Local taxes on marihuana by a city or town.

30 447-b. Ordinary and necessary expenses deductible from net 31 income.

32 448. Surety bond.

33 449. Collection of tax.

34 § 446. Definitions. As used in this article:

35 1. "Commercial market activity" includes the cultivation, possession,
36 manufacture, distribution, processing, storing, laboratory testing,
37 labeling, transportation, delivery or sale of marihuana and marihuana
38 products, as provided for in article eleven of the alcoholic beverage
39 control law, but shall not include medical marihuana activities provided
40 for in title five-A of article thirty-three of the public health law.

41 2. "Concentrated cannabis" means (a) the separated resin, whether
42 crude or purified, obtained from a plant of the genus Cannabis; or (b) a
43 material, preparation, mixture, compound or other substance which
44 contains more than three percent by weight of delta-9 tetrahydrocannabi-
45 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
46 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
47 system.

48 3. "Marihuana" means all parts of the plant of the genus Cannabis,
49 whether growing or not; the seeds thereof; the resin extracted from any
50 part of the plant; and every compound, manufacture, salt, derivative,
51 mixture, or preparation of the plant, its seeds or resin. It does not
52 include the mature stalks of the plant, fiber produced from the stalks,
53 oil or cake made from the seeds of the plant, any other compound, manu-
54 facture, salt, derivative, mixture, or preparation of the mature stalks
55 (except the resin extracted therefrom), fiber, oil, or cake, or the
56 sterilized seed of the plant which is incapable of germination. It does

1 not include all parts of the plant Cannabis sativa L., whether growing
2 or not, having no more than three-tenths of one percent tetrahydrocanna-
3 binol (THC).

4 4. "Marihuana consumer" means a person twenty-one years of age or
5 older who purchased marihuana or marihuana products for personal use by
6 persons twenty-one years of age or older, but not for resale to others.

7 5. "Marihuana flowers" shall mean the dried flowers of the marihuana
8 plant.

9 6. "Marihuana leaves" shall mean all parts of the marihuana plant
10 other than marihuana flowers that are sold or consumed.

11 7. "Marihuana processor" means a person licensed by the bureau of
12 marihuana policy to purchase marihuana and concentrated cannabis from
13 marihuana producers, to process marihuana, concentrated cannabis, and
14 marihuana-infused products, package and label marihuana, concentrated
15 cannabis and marihuana-infused products for sale in retail outlets, and
16 sell marihuana, concentrated cannabis and marihuana infused products at
17 wholesale to marihuana retailers.

18 8. "Marihuana producer" means a person licensed by the bureau of mari-
19 huana policy to produce, process, and sell marihuana and concentrated
20 cannabis at wholesale to marihuana processors, marihuana retailers, or
21 other marihuana producers, but not to consumers.

22 9. "Marihuana products" means marihuana, concentrated cannabis, and
23 marihuana-infused products.

24 10. "Marihuana-infused products" means products that contain marihuana
25 or concentrated cannabis and are intended for human use or consumption,
26 such as, but not limited to, edible products, ointments, and tinctures.

27 11. "Immature marihuana plant" means a marihuana plant with no observ-
28 able flowers or buds.

29 12. "Marihuana retailer" means a person licensed by the bureau of
30 marihuana policy to purchase marihuana, concentrated cannabis, and mari-
31 huana-infused products from marihuana producers and marihuana processors
32 and sell marihuana, marihuana-infused products, and concentrated canna-
33 bis in a retail outlet.

34 13. "Marihuana retailer for on-premises consumption" means a person
35 licensed by the bureau of marihuana policy to purchase marihuana,
36 concentrated cannabis, and marihuana infused products from marihuana
37 producers, marihuana retailers and marihuana processors and sell mari-
38 huana products for a customer to consume while the customer is within
39 the facility.

40 § 447. Taxes imposed. 1. (a) There is hereby levied and imposed a
41 cultivation tax upon all harvested marihuana that enters the commercial
42 market upon all persons required to be licensed to cultivate marihuana
43 pursuant to article eleven of the alcoholic beverage control law. The
44 tax shall be due after the marihuana is harvested.

45 (i) Marihuana flowers shall be taxed at a rate of sixty-two cents per
46 dry-weight gram.

47 (ii) Marihuana leaves shall be taxed at a rate of ten cents per dry-
48 weight gram.

49 (b) There is hereby levied and imposed a nursery tax upon all immature
50 plants that enter the commercial market upon all persons required to be
51 licensed to produce immature plants pursuant to article eleven of the
52 alcoholic beverage control law. Immature plants shall be taxed at a rate
53 of one dollar and thirty-five cents each.

54 (c) There is hereby levied and imposed a tax upon marihuana sold or
55 otherwise transferred by a marihuana producer to a marihuana processor

1 or marihuana retailer at a rate equivalent to the rate established under
2 article twenty-eight of this chapter.

3 (d) A marihuana excise tax is hereby levied and imposed upon customers
4 of nonmedical marihuana or nonmedical marihuana products sold in this
5 state at the rate fifteen percent of any sale by a retailer, microbusi-
6 ness, or other person required to be licensed pursuant to article eleven
7 of the alcoholic beverage control law to sell marihuana and marihuana
8 products directly to a customer.

9 (e) The department shall establish procedures for the collection of
10 all taxes levied.

11 (f) No tax established by this section shall be levied upon medical
12 marihuana intended for sale to a certified patient or designated care-
13 giver pursuant to title five-A of article thirty-three of the public
14 health law.

15 2. For reporting periods beginning later than one year following the
16 effective date of this article, the rates of tax under subdivision one
17 of this section shall be adjusted for each biennium according to the
18 cost-of-living adjustment for the calendar year.

19 3. The department shall regularly review the rates of the tax under
20 subdivision one of this section and make recommendations to the legisla-
21 ture regarding appropriate adjustments to the rates that will further
22 the purposes of:

23 (a) maximizing net revenue;

24 (b) minimizing the illegal marihuana industry; and

25 (c) discouraging the use of marihuana by minors under twenty-one years
26 of age.

27 § 447-a. Local taxes on marihuana by a city or town. Any city or town
28 in this state, acting through its local legislative body, is hereby
29 authorized and empowered to adopt and amend local laws imposing in any
30 such city or town a sales tax on marihuana retailers at a rate of no
31 more than two percent of the sale price of marihuana products sold to a
32 marihuana consumer. Any taxes imposed pursuant to the authority of this
33 section shall be administered and collected by the department in the
34 same manner as the taxes imposed under section four hundred forty-nine
35 of this article. The commissioner is hereby empowered to make such
36 provisions as it deems necessary for the joint administration and
37 collection of the state and local taxes imposed and authorized by this
38 article.

39 § 447-b. Ordinary and necessary expenses deductible from net income.
40 Notwithstanding any federal tax law to the contrary, in computing net
41 income for businesses exempted from criminal penalties under articles
42 two hundred twenty and two hundred twenty-one of the penal law and arti-
43 cle eleven of the alcoholic beverage control law, there shall be allowed
44 as a deduction from state taxes all the ordinary and necessary expenses
45 paid or incurred during the taxable year in carrying on any trade or
46 business, including but not limited to, reasonable allowance for sala-
47 ries or other compensation for personal services actually rendered.

48 § 448. Surety bond. Marihuana retailer applicants are required to
49 submit a surety bond with the department equal to two months of the
50 cultivation facility's anticipated retail marihuana excise tax. The
51 surety bond must be issued by a company authorized to do business in the
52 state. Proof of surety bond is required for approval of applicant's
53 retail license.

54 § 449. Collection of tax. This tax shall be collected by the commis-
55 sioner who shall establish a procedure for the collection of this tax.

§ 34. 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 and paragraph (k) as added by chapter 835 of the laws of 1977 and as relettered by chapter 192 of the laws of 1980, 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, or by the conviction of such person of a violation of [article two hundred twenty-one] section 221.45 of the penal law on or after the effective date of the chapter of the laws of two thousand nineteen that amended this subdivision or a violation of section 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 or 221.40 of the penal law prior to the effective date of the chapter of the laws of two thousand nineteen that amended this subdivision; and (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]~~ marihuana. 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 related to a conviction for a violation of section 221.45 of the penal law. Any such waiver shall be deemed void and wholly unenforceable.

§ 35. Subdivision 4 of section 160.50 of the criminal procedure law, as amended by chapter 905 of the laws of 1977 and renumbered by chapter 142 of the laws of 1991, is amended to read as follows:

4. A person in whose favor a criminal action or proceeding was terminated, as defined in ~~[paragraph]~~ paragraphs (a) through (h), ~~(k) or (l)~~ of subdivision ~~[two]~~ three of this section, prior to the effective date of ~~[this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (i) or (j) of subdivision two of this section, prior to the effective date of this section, may apply to the appropriate prosecutor~~

~~er police agency for a certification as described in said paragraph (i) or (j) granting to such person the relief set forth therein, and such certification shall be granted by such prosecutor or police agency.]~~ the chapter of the laws of two thousand nineteen that amended this subdivision, and whose records have not been sealed pursuant to subdivision one of this section, may apply to have the records of such criminal action or proceeding sealed at the clerk's office for the court in which the criminal action or proceeding was terminated. Application may be made by the person or his or her attorney. Upon a determination by the clerk that the action or proceeding was terminated in the person's favor as defined in subdivision three of this section, the clerk of the court shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that the action has been terminated in favor of the accused and that the record of such action or proceedings shall be sealed. Upon receipt of notification of such termination and sealing, all records relating to the criminal action shall be sealed, as required under paragraph (c) of subdivision one of this section, and all photographs, photographic plates or proofs, palmprints and fingerprints shall be destroyed or returned as specified in paragraphs (a) and (b) of subdivision one of this section. This paragraph shall not apply to cases in which the court declined to seal for reasons stated on the record, pursuant to subdivision one of this section. When an applicant under this subdivision presents to the court clerk fingerprint records from New York state division of criminal justice services or a court disposition which indicate that a criminal action or proceeding against the applicant was dismissed but the supporting court records cannot be located, have been destroyed, or do not indicate whether the dismissal was a "termination in favor of" the accused as that term is defined in subdivision three of this section, the clerk of the court wherein such criminal action or proceeding was terminated shall proceed as if the matter had been so terminated.

§ 36. Subdivisions 1 and 2 of section 170.56 of the criminal procedure law, subdivision 1 as amended by chapter 360 of the laws of 1977 and subdivision 2 as added by chapter 1042 of the laws of 1971, are amended to read as follows:

1. Upon or after arraignment in a local criminal court upon an information, a prosecutor's information or a misdemeanor complaint, where the sole remaining count or counts charge a violation or violations of section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 221.45 of the penal law, or upon summons for a nuisance offense under section sixty-five-c of the alcoholic beverage control law and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal, or upon a finding that adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument; provided, however, that the court may not order such adjournment in contemplation of dismissal or dismiss the accusatory instrument if: (a) the defendant has previously been granted such adjournment in contemplation of dismissal, or (b) the defendant has previously been granted a dismissal under this section, or (c) the defendant has previously been convicted of any offense involving controlled substances, or (d) the defendant has previously been convicted of a crime and the district attorney does not consent or (e) the defendant has previously been adjudicated a youthful

offender on the basis of any act or acts involving controlled substances and the district attorney does not consent. Notwithstanding the limitations set forth in this subdivision, the court may order that all proceedings be suspended and the action adjourned in contemplation of dismissal based upon a finding of exceptional circumstances. For purposes of this subdivision, exceptional circumstances exist when, regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe collateral consequences, including, but not limited to, those that could leave a noncitizen inadmissible or removable from the United States.

2. Upon ordering the action adjourned in contemplation of dismissal, the court must set and specify such conditions for the adjournment as may be appropriate, and such conditions may include placing the defendant under the supervision of any public or private agency. At any time prior to dismissal the court may modify the conditions or extend or reduce the term of the adjournment, except that the total period of adjournment shall not exceed ~~twelve~~ six months. Upon violation of any condition fixed by the court, the court may revoke its order and restore the case to the calendar and the prosecution thereupon must proceed. If the case is not so restored to the calendar during the period fixed by the court, the accusatory instrument is, at the expiration of such period, deemed to have been dismissed in the furtherance of justice.

§ 37. Section 210.46 of the criminal procedure law, as amended by chapter 360 of the laws of 1977, is amended to read as follows:

§ 210.46 Adjournment in contemplation of dismissal in marihuana cases in a superior court.

Upon or after arraignment in a superior court upon an indictment where the sole remaining count or counts charge a violation or violations of section ~~[221.05, 221.10, 221.15, 221.35 or 221.40]~~ 221.45 of the penal law and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal or may dismiss the indictment in furtherance of justice, in accordance with the provisions of section 170.56 of this chapter.

§ 38. 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 (criminal possession of marihuana in the fifth degree), 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 marihuana; or

1 (ii) an offense as defined by former section 221.35 of the penal law
2 (criminal sale of marihuana in the fifth degree).

3 § 39. Subdivision 6 of section 440.10 of the criminal procedure law,
4 as added by chapter 332 of the laws of 2010, is amended to read as
5 follows:

6 6. If the court grants a motion under paragraph (i) or paragraph (j)
7 of subdivision one of this section, it must vacate the judgment and
8 dismiss the accusatory instrument, and may take such additional action
9 as is appropriate in the circumstances.

10 § 40. The criminal procedure law is amended by adding a new section
11 440.46-a to read as follows:

12 § 440.46-a Motion for resentence; persons convicted of certain marihuana
13 offenses.

14 1. A person currently serving a sentence for a conviction, whether by
15 trial or by open or negotiated plea, who would not have been guilty of
16 an offense or who would have been guilty of a lesser offense on and
17 after the effective date of this section had this section been in effect
18 at the time of his or her conviction may petition for a recall or
19 dismissal of sentence before the trial court that entered the judgment
20 of conviction in his or her case to request resentencing or dismissal in
21 accordance with article two hundred twenty-one of the penal law.

22 2. Upon receiving a motion under subdivision one of this section the
23 court shall presume the movant satisfies the criteria in subdivision one
24 of this section unless the party opposing the motion proves by clear and
25 convincing evidence that the movant does not satisfy the criteria. If
26 the movant satisfies the criteria in subdivision one of this section,
27 the court shall grant the motion to vacate the sentence or to resentence
28 because it is legally invalid. In exercising its discretion, the court
29 may consider, but shall not be limited to, the following:

30 (a) The movant's criminal conviction history, including the type of
31 crimes committed, the extent of injury to victims, the length of prior
32 prison commitments, and the remoteness of the crimes.

33 (b) The movant's disciplinary record and record of rehabilitation
34 while incarcerated.

35 3. A person who is serving a sentence and resentenced pursuant to
36 subdivision two of this section shall be given credit for any time
37 already served and shall be subject to supervision for one year follow-
38 ing completion of his or her time in custody or shall be subject to
39 whatever supervision time he or she would have otherwise been subject to
40 after release, whichever is shorter, unless the court, in its
41 discretion, as part of its resentencing order, releases the person from
42 supervision. Such person is subject to parole supervision under section
43 60.04 of the penal law or post-release supervision under section 70.45
44 of the penal law by the designated agency and the jurisdiction of the
45 court in the county in which the offender is released or resides, or in
46 which an alleged violation of supervision has occurred, for the purpose
47 of hearing petitions to revoke supervision and impose a term of custody.

48 4. Under no circumstances may resentencing under this section result
49 in the imposition of a term longer than the original sentence, or the
50 reinstatement of charges dismissed pursuant to a negotiated plea agree-
51 ment.

52 5. A person who has completed his or her sentence for a conviction
53 under the former article two hundred twenty-one of the penal law, wheth-
54 er by trial or open or negotiated plea, who would not have been guilty
55 of an offense or who would have been guilty of a lesser offense on and
56 after the effective date of this section had this section been in effect

1 at the time of his or her conviction, may file an application before the
2 trial court that entered the judgment of conviction in his or her case
3 to have the conviction, in accordance with article two hundred twenty-
4 one of the penal law:

5 (a) Dismissed because the prior conviction is now legally invalid and
6 sealed in accordance with section 160.50 of this chapter;

7 (b) Redesignated (or "reclassified") as a violation and sealed in
8 accordance with section 160.50 of this chapter; or

9 (c) Redesignated (reclassified) as a misdemeanor.

10 6. The court shall presume the petitioner satisfies the criteria in
11 subdivision five unless the party opposing the application proves by
12 clear and convincing evidence that the petitioner does not satisfy the
13 criteria in subdivision five. Once the applicant satisfies the criteria
14 in subdivision five, the court shall redesignate (or "reclassify") the
15 conviction as a misdemeanor, redesignate (reclassify) the conviction as
16 a violation and seal the conviction, or dismiss and seal the conviction
17 as legally invalid under this section had this section been in effect at
18 the time of his or her conviction.

19 7. Unless requested by the applicant, no hearing is necessary to grant
20 or deny an application filed under subdivision five of this section.

21 8. Any felony conviction that is vacated and resentenced under subdi-
22 vision two or designated as a misdemeanor or violation under subdivision
23 six of this section shall be considered a misdemeanor or violation for
24 all purposes. Any misdemeanor conviction that is vacated and resentenced
25 under subdivision two of this section or designated as a violation under
26 subdivision six of this section shall be considered a violation for all
27 purposes.

28 9. If the court that originally sentenced the movant is not available,
29 the presiding judge shall designate another judge to rule on the peti-
30 tion or application.

31 10. Nothing in this section is intended to diminish or abrogate any
32 rights or remedies otherwise available to the petitioner or applicant.

33 11. Nothing in this and related sections is intended to diminish or
34 abrogate the finality of judgements in any case not falling within the
35 purview of this section.

36 12. The provisions of this section shall apply equally to juvenile
37 delinquency adjudications and dispositions under section five hundred
38 one-e of the executive law if the juvenile would not have been guilty of
39 an offense or would have been guilty of a lesser offense under this
40 section had this section been in effect at the time of his or her
41 conviction.

42 13. The office of court administration shall promulgate and make
43 available all necessary forms to enable the filing of the petitions and
44 applications provided in this section no later than sixty days following
45 the effective date of this section.

46 § 41. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
47 procedure law, as amended by chapter 37 of the laws of 2014, is amended
48 to read as follows:

49 (c) Criminal possession of a controlled substance in the seventh
50 degree as defined in section 220.03 of the penal law, criminal
51 possession of a controlled substance in the fifth degree as defined in
52 section 220.06 of the penal law, criminal possession of a controlled
53 substance in the fourth degree as defined in section 220.09 of the penal
54 law, criminal possession of a controlled substance in the third degree
55 as defined in section 220.16 of the penal law, criminal possession of a
56 controlled substance in the second degree as defined in section 220.18

1 of the penal law, criminal possession of a controlled substance in the
2 first degree as defined in section 220.21 of the penal law, criminal
3 sale of a controlled substance in the fifth degree as defined in section
4 220.31 of the penal law, criminal sale of a controlled substance in the
5 fourth degree as defined in section 220.34 of the penal law, criminal
6 sale of a controlled substance in the third degree as defined in section
7 220.39 of the penal law, criminal sale of a controlled substance in the
8 second degree as defined in section 220.41 of the penal law, criminal
9 sale of a controlled substance in the first degree as defined in section
10 220.43 of the penal law, criminally possessing a hypodermic instrument
11 as defined in section 220.45 of the penal law, criminal sale of a
12 prescription for a controlled substance or a controlled substance by a
13 practitioner or pharmacist as defined in section 220.65 of the penal
14 law, criminal possession of methamphetamine manufacturing material in
15 the second degree as defined in section 220.70 of the penal law, crimi-
16 nal possession of methamphetamine manufacturing material in the first
17 degree as defined in section 220.71 of the penal law, criminal
18 possession of precursors of methamphetamine as defined in section 220.72
19 of the penal law, unlawful manufacture of methamphetamine in the third
20 degree as defined in section 220.73 of the penal law, unlawful manufac-
21 ture of methamphetamine in the second degree as defined in section
22 220.74 of the penal law, unlawful manufacture of methamphetamine in the
23 first degree as defined in section 220.75 of the penal law, unlawful
24 disposal of methamphetamine laboratory material as defined in section
25 220.76 of the penal law, operating as a major trafficker as defined in
26 section 220.77 of the penal law, ~~[criminal possession of marihuana in~~
27 ~~the first degree as defined in section 221.30 of the penal law, criminal~~
28 ~~sale of marihuana in the first degree as defined in section 221.55 of~~
29 ~~the penal law,~~] promoting gambling in the second degree as defined in
30 section 225.05 of the penal law, promoting gambling in the first degree
31 as defined in section 225.10 of the penal law, possession of gambling
32 records in the second degree as defined in section 225.15 of the penal
33 law, possession of gambling records in the first degree as defined in
34 section 225.20 of the penal law, and possession of a gambling device as
35 defined in section 225.30 of the penal law;

36 § 42. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and
37 9 of section 1310 of the civil practice law and rules, paragraphs (b)
38 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990
39 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,
40 are amended to read as follows:

41 (b) on three or more occasions, engaging in conduct constituting a
42 violation of any of the felonies defined in section 220.09, 220.16,
43 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[,] or 220.43 ~~[or 221.55]~~
44 of the penal law, which violations do not constitute a single criminal
45 offense as defined in subdivision one of section 40.10 of the criminal
46 procedure law, or a single criminal transaction, as defined in paragraph
47 (a) of subdivision two of section 40.10 of the criminal procedure law,
48 and at least one of which resulted in a conviction of such offense, or
49 where the accusatory instrument charges one or more of such felonies,
50 conviction upon a plea of guilty to a felony for which such plea is
51 otherwise authorized by law; or

52 (c) a conviction of a person for a violation of section 220.09,
53 220.16, 220.34 or 220.39 of the penal law, ~~[or a conviction of a crimi-~~
54 ~~nal defendant for a violation of section 221.30 of the penal law,~~] or
55 where the accusatory instrument charges any such felony, conviction upon
56 a plea of guilty to a felony for which the plea is otherwise authorized

1 by law, together with evidence which: (i) provides substantial indicia
2 that the defendant used the real property to engage in a continual,
3 ongoing course of conduct involving the unlawful mixing, compounding,
4 manufacturing, warehousing, or packaging of controlled substances [~~or~~
5 ~~where the conviction is for a violation of section 221.30 of the penal~~
6 ~~law, marijuana,~~] as part of an illegal trade or business for gain; and
7 (ii) establishes, where the conviction is for possession of a controlled
8 substance [~~or where the conviction is for a violation of section 221.30~~
9 ~~of the penal law, marijuana,~~] that such possession was with the intent
10 to sell it.

11 [~~6. "Pre conviction forfeiture crime" means only a felony defined in~~
12 ~~article two hundred twenty or section 221.30 or 221.55 of the penal~~
13 ~~law.~~]

14 9. "Criminal defendant" means a person who has criminal liability for
15 a crime defined in [~~subdivisions~~ subdivision five [~~and six hereof~~] of
16 this section. For purposes of this article, a person has criminal
17 liability when [~~(a)~~] he has been convicted of a post-conviction forfei-
18 ture crime[, ~~or (b) the claiming authority proves by clear and convinc-~~
19 ~~ing evidence that such person has committed an act in violation of arti-~~
20 ~~cle two hundred twenty or section 221.30 or 221.55 of the penal law~~].

21 § 43. Subdivision 13 of section 89-f of the general business law, as
22 added by chapter 336 of the laws of 1992, is amended to read as follows:

23 13. "Serious offense" shall mean any felony involving the offenses
24 enumerated in the closing paragraph of this subdivision; a criminal
25 solicitation of or a conspiracy to commit or an attempt to commit or a
26 criminal facilitation of a felony involving the offenses enumerated in
27 the closing paragraph of this subdivision, which criminal solicitation,
28 conspiracy, attempt or criminal facilitation itself constitutes a felony
29 or any offense in any other jurisdiction which if committed in this
30 state would constitute a felony; any offense in any other jurisdiction
31 which if committed in this state would constitute a felony provided that
32 for the purposes of this article, none of the following shall be consid-
33 ered criminal convictions or reported as such: (i) a conviction for
34 which an executive pardon has been issued pursuant to the executive law;
35 (ii) a conviction which has been vacated and replaced by a youthful
36 offender finding pursuant to article seven hundred twenty of the crimi-
37 nal procedure law, or the applicable provisions of law of any other
38 jurisdiction; or (iii) a conviction the records of which have been
39 sealed pursuant to the applicable provisions of the laws of this state
40 or of any other jurisdiction; and (iv) a conviction for which other
41 evidence of successful rehabilitation to remove the disability has been
42 issued.

43 Felonies involving: assault, aggravated assault and reckless endanger-
44 ment pursuant to article one hundred twenty; vehicular manslaughter,
45 manslaughter and murder pursuant to article one hundred twenty-five; sex
46 offenses pursuant to article one hundred thirty; unlawful imprisonment,
47 kidnapping or coercion pursuant to article one hundred thirty-five;
48 criminal trespass and burglary pursuant to article one hundred forty;
49 criminal mischief, criminal tampering and tampering with a consumer
50 product pursuant to article one hundred forty-five; arson pursuant to
51 article one hundred fifty; larceny and offenses involving theft pursuant
52 to article one hundred fifty-five; offenses involving computers pursuant
53 to article one hundred fifty-six; robbery pursuant to article one
54 hundred sixty; criminal possession of stolen property pursuant to arti-
55 cle one hundred sixty-five; forgery and related offenses pursuant to
56 article one hundred seventy; involving false written statements pursuant

1 to article one hundred seventy-five; commercial bribing and commercial
2 bribe receiving pursuant to article one hundred eighty; criminal imper-
3 sonation and scheme to defraud pursuant to article one hundred ninety;
4 bribery involving public servants and related offenses pursuant to arti-
5 cle two hundred; perjury and related offenses pursuant to article two
6 hundred ten; tampering with a witness, intimidating a victim or witness
7 and tampering with physical evidence pursuant to article two hundred
8 fifteen; criminal possession of a controlled substance pursuant to
9 sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a
10 controlled substance pursuant to sections 220.31, 220.34, 220.39,
11 220.41, 220.43 and 220.44; [~~criminal~~] unlicensed sale of [~~marijuana~~]
12 marihuana in the first degree pursuant to [~~sections~~] section 221.45[~~, 221.50 and 221.55~~]; riot in the first degree, aggravated harassment in
14 the first degree, criminal nuisance in the first degree and falsely
15 reporting an incident in the second or first degree pursuant to article
16 two hundred forty; and crimes against public safety pursuant to article
17 two hundred sixty-five of the penal law.

18 § 44. Paragraph (f) of subdivision 2 of section 850 of the general
19 business law is REPEALED.

20 § 45. Paragraph (h) of subdivision 2 of section 850 of the general
21 business law, as amended by chapter 812 of the laws of 1980, is amended
22 to read as follows:

23 (h) Objects, used or designed for the purpose of ingesting, inhaling,
24 or otherwise introducing [~~marihuana,~~] cocaine[~~, hashish, or hashish oil~~]
25 into the human body.

26 § 46. Paragraph a of subdivision 4-a of section 165 of the state
27 finance law, as added by chapter 95 of the laws of 2000, is amended to
28 read as follows:

29 a. In order to advance specific economic goals, New York state
30 labelled wines, as defined in subdivision [~~twenty-a~~] twenty-j of section
31 three of the alcoholic beverage control law, shall have favored source
32 status for the purposes of procurement in accordance with the provisions
33 of this subdivision. Procurement of these New York state labelled wines
34 shall be exempt from the competitive procurement provisions of section
35 one hundred sixty-three of this article and other competitive procure-
36 ment statutes. Such exemption shall apply to New York state labelled
37 wines as defined in subdivision [~~twenty-a~~] twenty-j of section three of
38 the alcoholic beverage control law produced by a licensed winery as
39 defined in section seventy-six of the alcoholic beverage control law.

40 § 47. Subdivision 7 of section 995 of the executive law, as amended by
41 chapter 19 of the laws of 2012, is amended to read as follows:

42 7. "Designated offender" means a person convicted of any felony
43 defined in any chapter of the laws of the state or any misdemeanor
44 defined in the penal law [~~except that where the person is convicted~~
45 ~~under section 221.10 of the penal law, only a person convicted under~~
46 ~~subdivision two of such section, or a person convicted under subdivision~~
47 ~~one of such section who stands previously convicted of any crime as~~
48 ~~defined in subdivision six of section 10.00 of the penal law~~].

49 § 48. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the
50 penal law, paragraph (b) as amended by section 31 of part AAA of chapter
51 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the
52 laws of 1990, are amended to read as follows:

53 (b) three or more violations of any of the felonies defined in section
54 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
55 220.43[~~, or~~] or 220.77[~~, or 221.55~~] of this chapter, which violations do
56 not constitute a single criminal offense as defined in subdivision one

1 of section 40.10 of the criminal procedure law, or a single criminal
2 transaction, as defined in paragraph (a) of subdivision two of section
3 40.10 of the criminal procedure law, and at least one of which resulted
4 in a conviction of such offense, or where the accusatory instrument
5 charges one or more of such felonies, conviction upon a plea of guilty
6 to a felony for which such plea is otherwise authorized by law; or

7 (c) a conviction of a person for a violation of section 220.09,
8 220.16, 220.34[,] or 220.39[, ~~or 221.30~~] of this chapter, or where the
9 accusatory instrument charges any such felony, conviction upon a plea of
10 guilty to a felony for which the plea is otherwise authorized by law,
11 together with evidence which: (i) provides substantial indicia that the
12 defendant used the real property to engage in a continual, ongoing
13 course of conduct involving the unlawful mixing, compounding, manufac-
14 turing, warehousing, or packaging of controlled substances [~~or where the~~
15 ~~conviction is for a violation of section 221.30 of this chapter, mari-~~
16 ~~juana~~] as part of an illegal trade or business for gain; and (ii) estab-
17 lishes, where the conviction is for possession of a controlled substance
18 [~~or where the conviction is for a violation of section 221.30 of this~~
19 ~~chapter, marijuana~~], that such possession was with the intent to sell
20 it.

21 § 49. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
22 and traffic law, as amended by chapter 368 of the laws of 2015, is
23 amended to read as follows:

24 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
25 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
26 of this section that result in disqualification for a period of five
27 years shall include a conviction under sections 100.10, 105.13, 115.05,
28 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
29 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,
30 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
31 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~]
32 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05,
33 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of
34 section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,
35 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of
36 the aforesaid offenses under section 110.00 of the penal law, or any
37 similar offenses committed under a former section of the penal law, or
38 any offenses committed under a former section of the penal law which
39 would constitute violations of the aforesaid sections of the penal law,
40 or any offenses committed outside this state which would constitute
41 violations of the aforesaid sections of the penal law.

42 § 50. The opening paragraph of paragraph (a) of subdivision 2 of
43 section 1194 of the vehicle and traffic law, as amended by chapter 196
44 of the laws of 1996, is amended to read as follows:

45 When authorized. Any person who operates a motor vehicle in this state
46 shall be deemed to have given consent to a chemical test of one or more
47 of the following: breath, blood, urine, or saliva, for the purpose of
48 determining the alcoholic and/or drug content, other than marijuana
49 content including but not limited to tetrahydrocannabinol content, of
50 the blood provided that such test is administered by or at the direction
51 of a police officer with respect to a chemical test of breath, urine or
52 saliva or, with respect to a chemical test of blood, at the direction of
53 a police officer:

54 § 51. Section 17 of the alcoholic beverage control law is amended by
55 adding a new subdivision 12 to read as follows:

12. To develop and establish minimum criteria for alcohol or substance use disorder training awareness programs which may be given and administered by schools; other entities including trade associations whose members are engaged in or involved in the retail sale of alcoholic beverages; national and regional franchisors who have granted at least five franchises in the state which are licensed to sell beer at retail for off-premises consumption; licensees authorized to sell alcoholic beverages at retail for off-premises consumption operating five or more licensed premises; and persons interested, whether as an individual proprietor or partner or officer or member of a limited liability company, in five or more licensees authorized to sell alcoholic beverages at retail for off-premises consumption. The authority shall provide for the issuance of certificates of approval to all certified alcohol or substance use disorder training awareness programs. Certificates of approval may be revoked by the authority for failure to adhere to the authority's rules and regulations. Such rules and regulations shall afford those who have been issued a certificate of approval an opportunity for a hearing prior to any determination of whether such certificate should be revoked.

No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years. To effectuate the provisions of this subdivision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; and to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol or substance use disorder training awareness program shall issue certificates of completion to all licensees and employees who successfully complete such an approved alcohol or substance use disorder training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol or substance use disorder training awareness program. Such transmittal shall be in a form and manner prescribed by the authority. The authority shall adopt rules and regulations to effectuate the provisions of this subdivision, including the minimum requirements for the curriculum of each such training program and the regular ongoing training of employees holding certificates of completion or renewal certificates. Such rules and regulations shall include the minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption, minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption, and the form of a certificate of completion or renewal thereof to be issued in respect to each such type of program. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol or substance use disorder training awareness program pursuant to

this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption shall not be invalidated by a change of employment to another such licensee. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol or substance use disorder training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption shall not be invalidated by a change of employment to another such licensee. Attendance at any course established pursuant to this section shall be in person, through distance learning methods, or through an internet based online program.

§ 52. Subdivision 12 of section 17 of the alcoholic beverage control law, as amended by chapter 549 of the laws of 2001, the closing paragraph as amended by chapter 435 of the laws of 2010, is amended to read as follows:

12. To develop and establish minimum criteria for alcohol or substance use disorder training awareness programs which may be given and administered by schools; other entities including trade associations whose members are engaged in or involved in the retail sale of alcoholic beverages; national and regional franchisors who have granted at least five franchises in the state which are licensed to sell beer at retail for off-premises consumption; licensees authorized to sell alcoholic beverages at retail for off-premises consumption operating five or more licensed premises; and persons interested, whether as an individual proprietor or partner or officer or member of a limited liability company, in five or more licensees authorized to sell alcoholic beverages at retail for off-premises consumption. The authority shall provide for the issuance of certificates of approval to all certified alcohol or substance use disorder training awareness programs. Certificates of approval may be revoked by the authority for failure to adhere to the authority's rules and regulations. Such rules and regulations shall afford those who have been issued a certificate of approval an opportunity for a hearing prior to any determination of whether such certificate should be revoked.

No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years. To effectuate the provisions of this subdivision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol or substance use disorder training awareness program shall issue certificates of completion to all licensees and employees who successfully complete such an approved alcohol or substance use disorder training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol or substance use disorder

1 training awareness program. Such transmittal shall be in a form and
2 manner prescribed by the authority. The authority shall adopt rules and
3 regulations to effectuate the provisions of this subdivision, including
4 the minimum requirements for the curriculum of each such training
5 program and the regular ongoing training of employees holding certifi-
6 cates of completion or renewal certificates. Such rules and regulations
7 shall include the minimum requirements for a separate curriculum for
8 licensees and their employees authorized to sell alcoholic beverages at
9 retail for off-premises consumption, minimum requirements for a separate
10 curriculum for licensees and their employees authorized to sell alcohol-
11 ic beverages at retail for on-premises consumption, and the form of a
12 certificate of completion or renewal thereof to be issued in respect to
13 each such type of program. A certificate of completion or renewal there-
14 of issued by an entity authorized to give and administer an alcohol or
15 substance use disorder training awareness program pursuant to this
16 subdivision to licensees and their employees authorized to sell alcohol-
17 ic beverages at retail for off-premises consumption shall not be invali-
18 dated by a change of employment to another such licensee. A certificate
19 of completion or renewal thereof issued by an entity authorized to give
20 and administer an alcohol or substance use disorder training awareness
21 program pursuant to this subdivision to licensees and their employees
22 authorized to sell alcoholic beverages at retail for on-premises
23 consumption shall not be invalidated by a change of employment to anoth-
24 er such licensee. Attendance at any course established pursuant to this
25 section shall be in person, through distance learning methods, or
26 through an internet based online program.

27 § 53. Subdivision 10 of section 18 of the alcoholic beverage control
28 law, as amended by chapter 118 of the laws of 2012, is amended to read
29 as follows:

30 10. To develop and establish minimum criteria for alcohol or substance
31 use disorder training awareness programs which may be given and adminis-
32 tered by schools; other entities including trade associations whose
33 members are engaged in or involved in the retail sale of alcoholic
34 beverages; national and regional franchisors who have granted at least
35 five franchises in the state which are licensed to sell beer at retail
36 for off-premises consumption; licensees authorized to sell alcoholic
37 beverages at retail for off-premises consumption operating five or more
38 licensed premises; and persons interested, whether as an individual
39 proprietor or partner or officer or member of a limited liability compa-
40 ny, in five or more licensees authorized to sell alcoholic beverages at
41 retail for off-premises consumption. The authority shall provide for the
42 issuance of certificates of approval to all certified alcohol or
43 substance use disorder training awareness programs. Certificates of
44 approval may be revoked by the authority for failure to adhere to the
45 authority's rules and regulations. Such rules and regulations shall
46 afford those who have been issued a certificate of approval an opportu-
47 nity for a hearing prior to any determination of whether such certif-
48 icate should be revoked.

49 No licensee shall be required to apply for any such certificate or
50 renewal certificate and the licensee may voluntarily surrender such a
51 certificate or renewal certificate at any time. A fee in the amount of
52 nine hundred dollars shall be paid to the authority with each applica-
53 tion for a certificate of approval or renewal certificate. The authority
54 shall promptly refund such fee to an applicant whose application was
55 denied. Each certificate of approval and renewal thereof shall be issued
56 for a period of three years. To effectuate the provisions of this subdi-

vision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol or substance use disorder training awareness program shall issue certificates of completion to all licensees and employees who successfully complete such an approved alcohol or substance use disorder training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol or substance use disorder training awareness program. Such transmittal shall be in a form and manner prescribed by the authority. The authority shall adopt rules and regulations to effectuate the provisions of this subdivision, including the minimum requirements for the curriculum of each such training program and the regular ongoing training of employees holding certificates of completion or renewal certificates. Such rules and regulations shall include the minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption, minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption, and the form of a certificate of completion or renewal thereof to be issued in respect to each such type of program. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol or substance use disorder training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption shall not be invalidated by a change of employment to another such licensee. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol or substance use disorder training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption shall not be invalidated by a change of employment to another such licensee. Attendance at any course established pursuant to this section shall be in person, through distance learning methods, or through an internet based online program.

§ 54. Section 18 of the alcoholic beverage control law, as added by chapter 83 of the laws of 1995, is amended by adding a new subdivision 10 to read as follows:

10. To develop and establish minimum criteria for alcohol or substance use disorder training awareness programs which may be given and administered by schools; other entities including trade associations whose members are engaged in or involved in the retail sale of alcoholic beverages; national and regional franchisors who have granted at least five franchises in the state which are licensed to sell beer at retail for off-premises consumption; licensees authorized to sell alcoholic beverages at retail for off-premises consumption operating five or more licensed premises; and persons interested, whether as an individual proprietor or partner or officer or member of a limited liability company, in five or more licensees authorized to sell alcoholic beverages at retail for off-premises consumption. The authority shall provide for the issuance of certificates of approval to all certified alcohol or

1 substance use disorder training awareness programs. Certificates of
2 approval may be revoked by the authority for failure to adhere to the
3 authority's rules and regulations. Such rules and regulations shall
4 afford those who have been issued a certificate of approval an opportu-
5 nity for a hearing prior to any determination of whether such certifi-
6 cate should be revoked.

7 No licensee shall be required to apply for any such certificate or
8 renewal certificate and the licensee may voluntarily surrender such a
9 certificate or renewal certificate at any time. A fee in the amount of
10 nine hundred dollars shall be paid to the authority with each applica-
11 tion for a certificate of approval or renewal certificate. The authority
12 shall promptly refund such fee to an applicant whose application was
13 denied. Each certificate of approval and renewal thereof shall be issued
14 for a period of three years. To effectuate the provisions of this subdivi-
15 sion, the authority is empowered to require in connection with an
16 application the submission of such information as the authority may
17 direct; to prescribe forms of applications and of all reports which it
18 deems necessary to be made by any applicant or certificate holder; to
19 conduct investigations; to require the maintenance of such books and
20 records as the authority may direct; to revoke, cancel, or suspend for
21 cause any certificate provided for in this subdivision. Each entity
22 authorized to give and administer an alcohol or substance use disorder
23 training awareness program shall issue certificates of completion to all
24 licensees and employees who successfully complete such an approved alco-
25 hol or substance use disorder training awareness program. Such entity
26 shall regularly transmit to the authority the names, addresses and dates
27 of attendance of all the licensees and employees of licensees who
28 successfully complete an approved alcohol or substance use disorder
29 training awareness program. Such transmittal shall be in a form and
30 manner prescribed by the authority. The authority shall adopt rules and
31 regulations to effectuate the provisions of this subdivision, including
32 the minimum requirements for the curriculum of each such training
33 program and the regular ongoing training of employees holding certifi-
34 icates of completion or renewal certificates. Such rules and regulations
35 shall include the minimum requirements for a separate curriculum for
36 licensees and their employees authorized to sell alcoholic beverages at
37 retail for off-premises consumption, minimum requirements for a separate
38 curriculum for licensees and their employees authorized to sell alcohol-
39 ic beverages at retail for on-premises consumption, and the form of a
40 certificate of completion or renewal thereof to be issued in respect to
41 each such type of program. A certificate of completion or renewal there-
42 of issued by an entity authorized to give and administer an alcohol or
43 substance use disorder training awareness program pursuant to this
44 subdivision to licensees and their employees authorized to sell alcohol-
45 ic beverages at retail for off-premises consumption shall not be invali-
46 dated by a change of employment to another such licensee. A certificate
47 of completion or renewal thereof issued by an entity authorized to give
48 and administer an alcohol or substance use disorder training awareness
49 program pursuant to this subdivision to licensees and their employees
50 authorized to sell alcoholic beverages at retail for on-premises
51 consumption shall not be invalidated by a change of employment to anoth-
52 er such licensee. Attendance at any course established pursuant to this
53 section shall be in person, through distance learning methods, or
54 through an internet based online program.

55 § 55. Section 150.75 of the criminal procedure law is REPEALED.

§ 56. Subdivision (a) of section 712 of the family court act, as amended by section 7 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

(a) "Person in need of supervision". A person less than eighteen years of age who does not attend school in accordance with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority, or who violates the provisions of section ~~[221.05-ex]~~ 230.00 of the penal law, or who appears to be a sexually exploited child as defined in paragraph (a), (c) or (d) of subdivision one of section four hundred forty-seven-a of the social services law, but only if the child consents to the filing of a petition under this article.

§ 57. The state finance law is amended by adding a new section 99-ii to read as follows:

§ 99-ii. Marihuana microbusiness and marihuana license revolving loan fund. 1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a fund to be known as the marihuana microbusiness and marihuana license revolving loan fund.

2. The fund shall consist of all monies appropriated for its purpose, all monies transferred to such fund pursuant to law and all monies required by the provisions of this section or any other law to be paid into or credited to this fund, including all monies received by the fund or donated to it. Monies in the fund shall be kept separate and shall not be commingled with any other monies otherwise appropriated or received except as hereby provided.

3. Monies of the fund, when allocated, shall be available to the bureau of marihuana policy for the purpose of providing low interest loans to individuals and businesses interested in establishing a marihuana microbusiness or otherwise obtaining a license available from the bureau of marihuana policy and participating in the marihuana industry.

4. The bureau of marihuana policy shall establish through rules and regulations guidelines necessary to administer the fund. Guidelines shall include, but not be limited to: qualifications and conditions for assistance; terms of loan or installment payments and finance charges on installment payments at rates of interest which, notwithstanding any other provision of law, are of the lowest rate possible to maintain the fund; prioritize loans to promote racial, ethnic, and gender diversity in licenses for marihuana related activities; and any other terms and conditions the bureau may require as necessary to properly effectuate the provisions of this section.

5. The bureau of marihuana policy shall make public by September first of each year a report including, but not limited to: the current guidelines of the fund; a complete financial statement including, but not limited to, monies allocated, collected, transferred or otherwise paid or credited to the fund; a projected schedule of disbursements, receipts and needs of the fund for the next fiscal year; and the names and business addresses of each current loan recipient.

6. No monies shall be payable from this fund, except on the audit and warrant of the comptroller on vouchers certified and submitted by the bureau of marihuana policy.

§ 58. Appropriation. The sum of five million dollars (\$5,000,000) is hereby appropriated to the New York State Liquor Authority out of any moneys in the state treasury in the general fund to the credit of the

1 state purposes account, not otherwise appropriated, and made immediately
2 available, for the purpose of carrying out the provisions of this act.
3 Such moneys shall be payable on the audit and warrant of the comptroller
4 on vouchers certified or approved by the superintendent or the chairman
5 of the New York State Liquor Authority in the manner prescribed by law.

6 § 59. Severability. If any provision or term of this act is for any
7 reason declared unconstitutional or invalid or ineffective by any court
8 of competent jurisdiction, such decision shall not affect the validity
9 of the effectiveness of the remaining portions of this act or any part
10 thereof.

11 § 60. This act shall take effect immediately; provided, however, that
12 the amendments to section 17 of the alcoholic beverage control law made
13 by section fifty-one of this act shall not affect the expiration and
14 reversion of such section and shall expire and be deemed repealed there-
15 with, when upon such date the provisions of section fifty-two of this
16 act shall take effect; provided further, however, that the amendments to
17 section 18 of the alcoholic beverage control law made by section fifty-
18 three of this act shall not affect the expiration and reversion of such
19 section and shall expire and be deemed repealed therewith, when upon
20 such date the provisions of section fifty-four of this act shall take
21 effect.