

STATE OF NEW YORK

6040

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to hemp and the licensing process

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

1 Section 1. The agriculture and markets law is amended by adding a new
2 article 29-A to read as follows:

ARTICLE 29-A

HEMP

Section 525. Cannabinoid related hemp licensing.

526. Cannabinoid grower licenses.

527. Cannabinoid extractor license.

528. Cannabinoid license applications.

529. Cannabinoid product manufacturer license.

530. Information to be requested in applications for licenses.

531. Fees.

532. Selection criteria.

533. Limitations of licensure; duration.

534. License renewal.

535. Form of license.

536. Amendments to license and duty to update information submitted for licensing.

537. Record keeping and tracking.

538. Inspections and ongoing requirements.

539. Packaging and labeling of hemp.

540. Provisions governing the growing and extracting of hemp and derived products.

541. Testing.

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

LBD11828-01-9

1 542. Advertising.

2 543. Research.

3 544. Regulations.

4 § 525. Cannabinoid related hemp licensing. 1. Persons growing, proc-
5 essing, extracting, and/or manufacturing hemp or producing hemp products
6 distributed, sold or marketed for cannabinoid content and used or
7 intended for human or animal consumption or use, shall be required to
8 obtain the following license or licenses from the office, depending upon
9 the operation:

10 (a) cannabinoid grower license;

11 (b) cannabinoid extractor license; and/or

12 (c) cannabinoid product manufacturer license.

13 2. Those persons growing, processing or manufacturing food or food
14 ingredients from hemp, which food or food ingredients are generally
15 recognized as safe, shall be subject to regulation and/or licensing
16 under this chapter.

17 3. Notwithstanding any other provision of law to the contrary,
18 prepackaged beverages that contain hemp or any part of the hemp plant,
19 including the seeds and all naturally occurring cannabinoids, compounds,
20 concentrates, extracts, isolates, terpenes, resins, isomers, acids,
21 salts, salts of isomers or cannabidiol derivatives, are not considered
22 to be adulterated or misbranded under this chapter based solely on the
23 inclusion of hemp or any part of the hemp plant as long as the amount of
24 cannabidiol is limited to twenty milligrams per serving. The office
25 shall allow cannabidiol in food products and have the power to alter
26 amounts in beverages on the basis of scientific evidence connected with
27 health effects.

28 4. The nonpharmaceutical or nonmedical production, marketing, sale or
29 distribution of beverages, food or food products within the state that
30 contain hemp or any part of the hemp plant may not be restricted or
31 prohibited within the state based solely on the inclusion of hemp or any
32 part of the hemp plant.

33 5. A beverage and/or food producer may not make any claims that a
34 beverage, food or food product that contains hemp can treat, cure or
35 prevent any disease without approval pursuant to federal law.

36 § 526. Cannabinoid grower licenses. 1. A cannabinoid grower's license
37 authorizes the acquisition, possession, cultivation and sale of hemp
38 grown or used for its cannabinoid content on the licensed premises of
39 the grower.

40 2. A person licensed under article twenty-nine of this chapter as a
41 hemp grower may apply for a cannabinoid grower's license provided that
42 it can demonstrate to the office that its cultivation of hemp meets all
43 the requirements for hemp cultivated under a cannabinoid grower's
44 license.

45 § 527. Cannabinoid extractor license. 1. A cannabinoid extractor
46 license authorizes the licensee's acquisition, possession, extraction
47 and manufacture of hemp from a licensed cannabinoid grower for the proc-
48 essing of hemp or the production of hemp products marketed, distributed
49 or sold for cannabinoid content and used or intended for human or animal
50 consumption or use.

51 2. No cannabinoid extractor licensee shall engage in any other busi-
52 ness on the licensed premises; except that nothing contained in this
53 chapter shall prevent a cannabinoid extractor licensee from also being
54 licensed as a cannabinoid grower on the same premises.

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

4 § 528. Cannabinoid license applications. 1. Persons shall apply for a
5 cannabinoid grower license and/or a cannabinoid extractor license by
6 submitting an application upon a form supplied by the office, providing
7 all the requested information, verified by the applicant or an author-
8 ized representative of the applicant.

9 2. Each application shall remit with its application the fee for each
10 requested license.

11 § 529. Cannabinoid product manufacturer license. 1. A cannabinoid
12 product manufacturer license shall authorize the licensee's acquisition
13 and possession of processed hemp for the purpose of manufacturing bever-
14 ages and food products marketed, distributed or sold for cannabinoid
15 content and used or intended for human or animal consumption or use.

16 2. Nothing contained in this chapter shall prevent a cannabinoid prod-
17 uct manufacturer licensee from also being licensed as a cannabinoid
18 grower and/or cannabinoid extractor on the same premises.

19 § 530. Information to be requested in applications for licenses. 1.
20 The office shall have the authority to prescribe the manner and form in
21 which an application must be submitted to the office for licensure under
22 this article.

23 2. The executive director is authorized to adopt regulations, includ-
24 ing by emergency rule, establishing information which must be included
25 on an application for licensure under this article. Such information may
26 include, but is not limited to: information about the applicant's iden-
27 tity, including racial and ethnic diversity; ownership and investment
28 information, including the corporate structure; evidence of good moral
29 character, including the submission of fingerprints by the applicant to
30 the division of criminal justice services; information about the prem-
31 ises to be licensed; financial statements; and any other information
32 prescribed by in regulation.

33 3. All license applications shall be signed by the applicant (if an
34 individual), by a managing partner (if a limited liability corporation),
35 by an officer (if a corporation), or by all partners (if a partnership).
36 Each person signing such application shall verify it or affirm it as
37 true under the penalties of perjury.

38 4. All license or permit applications shall be accompanied by a check,
39 draft or other forms of payment as the office may require or authorize
40 in the amount required by this article for such license or permit.

41 5. If there be any change, after the filing of the application or the
42 granting of a license, in any of the facts required to be set forth in
43 such application, a supplemental statement giving notice of such change,
44 cost and source of money involved in the change, duly verified, shall be
45 filed with the office within ten days after such change. Failure to do
46 so shall, if willful and deliberate, be cause for revocation of the
47 license.

48 6. In giving any notice, or taking any action in reference to a licen-
49 see of a licensed premises, the office may rely upon the information
50 furnished in such application and in any supplemental statement
51 connected therewith, and such information may be presumed to be correct,
52 and shall be binding upon a registered organization, licensee or
53 licensed premises as if correct. All information required to be
54 furnished in such application or supplemental statements shall be deemed
55 material in any prosecution for perjury, any proceeding to revoke,

1 cancel or suspend any license, and in the office's determination to
2 approve or deny the license.

3 7. The office may, in its discretion, waive the submission of any
4 category of information described in this section for any category of
5 license or permit, provided that it shall not be permitted to waive the
6 requirement for submission of any such category of information solely
7 for an individual applicant or applicants.

8 § 531. Fees. The office shall have the authority to charge licensees a
9 biennial license fee. Such fee may be based on the amount of hemp to be
10 grown, processed or extracted by the licensee, the gross annual receipts
11 of the licensee for the previous license period, or any other factors
12 deemed appropriate by the office.

13 § 532. Selection criteria. 1. An applicant shall furnish evidence:

14 (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol
15 concentration that does not exceed a percentage of delta-9-tetrahydro-
16 cannabinol cannabis set by the executive director on a dry weight basis
17 of any part of the plant of the genus cannabis, or per volume or weight
18 of hemp product, or the combined percent of delta-9-tetrahydrocannabinol
19 and tetrahydrocannabinolic acid in any part of the plant of the genus
20 cannabis regardless of moisture content, for all hemp and hemp derived
21 products cultivated, processed or extracted by the applicant;

22 (b) its ability to comply with all applicable state laws and regu-
23 lations, including, without limitation, the provisions of article four-
24 teen of this chapter;

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

27 (d) that the applicant is in possession of or has the right to use
28 land, buildings and equipment sufficient to properly carry on the activ-
29 ity described in the application;

30 (e) that the applicant is the majority owner or principal in a farm or
31 growing operation located wholly within the state of New York which
32 produces an agricultural product;

33 (f) the applicant produces a minimum of ten thousand dollars in farm
34 income from sales of agricultural products grown or raised on the appli-
35 cant's farm operation as reflected on either personal or business tax
36 returns;

37 (g) that a majority of owners are residents of the state of New York;
38 and

39 (h) the applicant materially and substantially participates in the
40 day-to-day production and sales of an agricultural product grown or
41 raised on the farm or growing operation.

42 2. The office, in considering whether to grant the license applica-
43 tion, shall consider whether:

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

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

50 (c) the applicant satisfies any other conditions as determined by the
51 office.

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

54 2. All licenses under this article shall expire three years after the
55 date of issue and be subject to any rules or limitations prescribed by
56 the executive director in regulation.

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

4 2. In the case of applications for renewals, the office may dispense
5 with the requirements of such statements as it deems unnecessary in view
6 of those contained in the application made for the original license, but
7 in any event the submission of photographs of the licensed premises
8 shall be dispensed with, provided the applicant for such renewal shall
9 file a statement with the office to the effect that there has been no
10 alteration of such premises since the original license was issued.

11 3. The office may make such rules as may be necessary, not inconsis-
12 tent with this chapter, regarding applications for renewals of licenses
13 and permits and the time for making the same.

14 4. The office shall provide an application for renewal of a license
15 issued under this article not less than ninety days prior to the expira-
16 tion of the current license.

17 5. The office may only issue a renewal license upon receipt of the
18 prescribed renewal application and renewal fee from a licensee if, in
19 addition to the criteria in section five hundred thirty of this article,
20 the licensee's license is not under suspension and has not been revoked.

21 6. The office shall have the authority to charge applicants for licen-
22 sure under this article a non-refundable application fee. Such fee may
23 be based on the type of licensure sought, cultivation and/or production
24 volume, or any other factors deemed reasonable and appropriate by the
25 office to achieve the policy and purpose of this chapter.

26 § 535. Form of license. Licenses issued pursuant to this article shall
27 specify:

28 1. the name and address of the licensee;

29 2. the activities permitted by the license;

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

32 4. a unique license number issued by the office to the licensee; and

33 5. such other information as the executive director shall deem neces-
34 sary to assure compliance with this article.

35 § 536. Amendments to license and duty to update information submitted
36 for licensing. 1. Upon application of a licensee to the office, a
37 license may be amended to allow the licensee to relocate within the
38 state, to add or delete licensed activities or facilities, or to amend
39 the ownership or organizational structure of the entity that is the
40 licensee. The fee for such amendment shall be two hundred fifty dollars.

41 2. In the event that any of the information provided by the applicant
42 changes either while the application is pending or after the license is
43 granted, within ten days of any such change, the applicant or licensee
44 shall submit to the office a verified statement setting forth the change
45 in circumstances of facts set forth in the application. Failure to do so
46 shall, if willful and deliberate, be cause for revocation of the
47 license.

48 3. A license shall become void by a change in ownership, substantial
49 corporate change or location without prior written approval of the exec-
50 utive director. The executive director may promulgate regulations
51 allowing for certain types of changes in ownership without the need for
52 prior written approval.

53 4. For purposes of this section, "substantial corporate change" shall
54 mean:

55 (a) for a corporation, a change of eighty percent or more of the offi-
56 cers and/or directors, or a transfer of eighty percent or more of stock

1 of such corporation, or an existing stockholder obtaining eighty percent
2 or more of the stock of such corporation; and

3 (b) for a limited liability company, a change of eighty percent or
4 more of the managing members of the company, or a transfer of eighty
5 percent or more of ownership interest in said company, or an existing
6 member obtaining a cumulative of eighty percent or more of the ownership
7 interest in said company.

8 § 537. Record keeping and tracking. 1. The executive director shall,
9 by regulation, require each licensee pursuant to this article to adopt
10 and maintain security, tracking, record keeping, record retention and
11 surveillance systems, relating to all hemp at every stage of acquiring,
12 possession, manufacture, transport, sale, or delivery, or distribution
13 by the licensee, subject to regulations of the executive director.

14 2. Every licensee shall keep and maintain upon the licensed premises,
15 adequate books and records of all transactions involving the licensee
16 and sale of its products, which shall include all information required
17 by rules promulgated by the office.

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

21 4. Such books, records and invoices shall be kept for a period of five
22 years and shall be available for inspection by any authorized represen-
23 tative of the office.

24 § 538. Inspections and ongoing requirements. All licensees shall be
25 subject to reasonable inspection by the office, and a person who holds a
26 license must make himself or herself, or an agent thereof, available and
27 present for any inspection required by the office. The office shall make
28 reasonable accommodations so that ordinary business is not interrupted
29 and safety and security procedures are not compromised by the
30 inspection.

31 § 539. Packaging and labeling of hemp. 1. The office is hereby
32 authorized to promulgate rules and regulations governing the packaging
33 and labeling of hemp products, sold or possessed for sale in New York
34 state.

35 2. Such regulations shall include, but not be limited to, requiring
36 labels warning consumers of any potential impact on human health result-
37 ing from the consumption of hemp products that shall be affixed to those
38 products when sold, if such labels are deemed warranted by the office.

39 3. Such regulations shall require that all labels include the state
40 where the majority of hemp used in production of the product was grown.
41 All labels shall include information on where to access test results for
42 the product, including potency, pesticides, heavy metals, yeast and
43 mold.

44 4. Such rules and regulations shall establish methods and procedures
45 for determining, among other things, serving sizes for hemp products,
46 active cannabinoid concentration per serving size, and number of serv-
47 ings per container. Such regulations shall also require a nutritional
48 fact panel that incorporates data regarding serving sizes and potency
49 thereof.

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

55 § 540. Provisions governing the growing and extracting of hemp and
56 derived products. 1. No licensed cannabinoid grower or extractor shall

1 sell, or agree to sell or deliver in the state any hemp products to
2 consumers, as the case may be, except in packaging pursuant to rules
3 adopted by the office. Such containers shall have affixed thereto such
4 labels as may be required by the rules of the office.

5 2. Licensed cannabinoid growers shall only use pesticides that are
6 registered by the New York state department of environmental conserva-
7 tion or that specifically meet the United States Environmental
8 Protection Agency registration exemption criteria for minimum risk
9 pesticides, and only in compliance with regulations, standards and
10 guidelines issued by the department of environmental conservation.

11 3. All hemp products shall be extracted and manufactured in accordance
12 with standards deemed appropriate for consumer and employee safety as
13 may be modified by the office in regulation. These standards should be
14 set in a manner that considers existing rules and regulations regarding
15 similar products including, but not limited to, article twenty-C of this
16 chapter and CFR 117 Title 21, and may vary based on the type of product
17 and/or intended consumer use.

18 4. The use or integration of alcohol or nicotine products is strictly
19 prohibited.

20 § 541. Testing. 1. (a) Cannabinoid growers shall contract with an
21 independent laboratory to conduct tetrahydrocannabinol compliance test-
22 ing for each cultivar of hemp grown on the farm operation within four-
23 teen days before harvest. The office, in consultation with the commis-
24 sioner of health, shall approve the laboratory and require that the
25 laboratory report testing results in a manner determined by the office.
26 The office is authorized to issue regulations requiring the laboratory
27 to perform certain tests and services. The office may conduct spot test-
28 ing of any grower by inspectors.

29 (b) Field testing of hemp shall include the following:

30 (i) representative non-decarboxylated samples of flower and leaves
31 from the whole plant and/or in compliance with United States department
32 of agriculture regulations.

33 (ii) Tetrahydrocannabinol compliance threshold shall mean a
34 delta-9-tetrahydrocannabinol concentration of no more than three-tenths
35 of one percent on a dry weight basis for hemp.

36 2. Cannabinoid extractors and manufacturers shall contract with an
37 independent laboratory to test the hemp products produced by a licensed
38 extractor. The office, in consultation with the commissioner of health,
39 shall approve the laboratory and require that the laboratory report
40 testing results in a manner determined by the office. The office shall
41 be authorized to issue regulations requiring the laboratory to perform
42 certain tests and services.

43 3. The office shall make laboratory test reports available to persons
44 holding a cannabinoid permit pursuant to this chapter for all hemp
45 products manufactured by the licensee.

46 4. On-site laboratory testing by licensees is permissible; however,
47 such testing shall not be certified by the office and does not exempt
48 the licensee from the requirements of quality assurance testing at a
49 testing laboratory pursuant to this section.

50 § 542. Advertising. The office shall promulgate rules and regulations
51 governing the advertising of hemp and any other related products or
52 services as determined by the executive director.

53 § 543. Research. 1. The office shall promote research and development
54 through public-private partnerships to bring new hemp and industrial
55 hemp derived products to market within the state.

1 2. The executive director may develop and carry out research programs
2 relating to industrial hemp and hemp.

3 § 544. Regulations. 1. The office shall make regulations to implement
4 this article.

5 2. The office shall appoint a state of New York hemp workgroup
6 composed of researchers, producers, processors and manufacturers, serv-
7 ing two-year terms, to make recommendations concerning law, regulations
8 and research topics for the hemp research pilot program, state and
9 federal policies and policy initiatives, and opportunities for the
10 promotion and marketing of state of New York hemp consistent with feder-
11 al and state laws, rules and regulations.

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

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

23 Notwithstanding any provision of law to the contrary restricting the
24 growing or cultivating, sale, distribution, transportation or processing
25 of [~~industrial~~] hemp and products derived from such hemp, and subject to
26 authorization under federal law, the commissioner may authorize the
27 growing or cultivating of [~~industrial~~] hemp as part of agricultural
28 pilot programs conducted by the department and/or an institution of
29 higher education to study the growth and cultivation, sale, distrib-
30 ution, transportation and processing of such hemp and products derived
31 from such hemp provided that the sites and programs used for growing or
32 cultivating [~~industrial~~] hemp are certified by, and registered with, the
33 department.

34 § 3. Section 507 of the agriculture and markets law, as amended by
35 chapter 256 of the laws of 2016, is amended to read as follows:

36 § 507. Prohibitions. Except as authorized by federal and state law,
37 and regulations promulgated pursuant to section five hundred eight of
38 this article, the sale, distribution or export of [~~industrial~~] hemp
39 grown or cultivated pursuant to this article is prohibited.

40 § 4. Section 508 of the agriculture and markets law, as amended by
41 chapter 256 of the laws of 2016, is amended to read as follows:

42 § 508. Regulations. In cooperation with the commissioner of health and
43 the commissioner of criminal justice services, the commissioner shall
44 develop regulations consistent with the provisions of this article for
45 the approval of agricultural pilot programs for the growing and culti-
46 vation, sale, distribution, transportation or processing of [~~industrial~~]
47 hemp and products derived from such hemp, including, but not limited to:

48 (a) the authorization of any person who as part of such programs may:
49 acquire or possess [~~industrial~~] hemp plants or hemp seeds; grow or
50 cultivate [~~industrial~~] hemp plants; and/or, sell, purchase, distribute,
51 transport or process such plants, seeds and products; [~~and~~]

52 (b) the disposal, if necessary, of [~~industrial~~] hemp after it has been
53 grown or cultivated and studied[~~-~~];

54 (c) the granting of licenses from year-to-year, which shall be limited
55 based on the department ability to monitor the program;

1 (d) requiring farm operations to have a minimum of ten thousand
2 dollars in farm income from sales of agricultural products grown or
3 raised on the applicant's farm operation, as reflected on either
4 personal or business tax returns;

5 (e) requiring all owners to be residents of the state of New York and
6 at least eighteen years of age;

7 (f) requiring all owners to materially and substantially participate
8 in the day-to-day production and sales of an agricultural product grown
9 or raised on such farm operation; and

10 (g) requiring ninety percent of licenses to go to in state growers.

11 § 5. Section 509 of the agriculture and markets law, as added by chap-
12 ter 256 of the laws of 2016, is amended to read as follows:

13 § 509. [~~Industrial hemp~~] Hemp reporting. The commissioner, in cooper-
14 ation with the commissioner of economic development, shall file a writ-
15 ten report with the governor, the majority and minority leaders of the
16 senate and the speaker and minority leader of the assembly on January
17 first, two thousand eighteen concerning the status of agricultural pilot
18 programs developed pursuant to this article. Such report shall include,
19 but not be limited to, the success of such programs in cultivating,
20 marketing, processing and selling [~~industrial~~] hemp and products derived
21 from such hemp, and the opportunities and barriers to developing hemp
22 related businesses and jobs.

23 § 6. Section 510 of the agriculture and markets law, as added by chap-
24 ter 88 of the laws of 2017, is amended to read as follows:

25 § 510. [~~Industrial hemp~~] Hemp seed certification program. The commis-
26 sioner shall establish [~~an industrial~~] a hemp seed certification program
27 in the department to, among other things, set [~~industrial~~] hemp seed
28 certification standards and establish seed quality benchmarks to ensure
29 that the local hemp cultivars are developed to be well adapted for New
30 York state's climate and farm management practices and that they are
31 stable with respect to the concentration of
32 delta-9-tetrahydrocannabinol, which shall not exceed more than three-
33 tenths of one percent by dry weight basis.

34 § 7. Section 511 of the agriculture and markets law, as added by chap-
35 ter 88 of the laws of 2017, is amended to read as follows:

36 § 511. [~~Industrial hemp~~] Hemp data collection and best farming prac-
37 tices. The department, through the commissioner, shall have the power to
38 collect and publish data and research concerning, among other things,
39 the growth, cultivation, production and processing methods of [~~indus-~~
40 ~~trial~~] hemp and products derived from [~~industrial~~] hemp. Based upon this
41 collection of data and research, the department shall work with the
42 cornell cooperative extension to promote best farming practices for
43 [~~industrial~~] hemp which are compatible with state water quality and
44 other environmental objectives.

45 § 8. Section 512 of the agriculture and markets law, as added by chap-
46 ter 88 of the laws of 2017, is amended to read as follows:

47 § 512. [~~Industrial hemp~~] Hemp economic development. The commissioner
48 shall consult and cooperate with the New York State urban development
49 corporation with respect to the funding and support of research concern-
50 ing [~~industrial~~] hemp and businesses involved in the processing and
51 manufacturing of [~~industrial~~] hemp products.

52 § 9. Section 513 of the agriculture and markets law, as added by chap-
53 ter 88 of the laws of 2017, is amended to read as follows:

54 § 513. [~~Industrial hemp~~] Hemp one-stop shop. The commissioner shall
55 establish a department one-stop shop hotline and webpage to provide
56 information and technical assistance to producers and manufacturers with

1 respect to the law and regulations surrounding [~~industrial~~] hemp for so
2 long as [~~industrial~~] hemp is subject to regulation under the federal or
3 state Controlled Substances Act.

4 § 10. Section 514 of the agriculture and markets law, as added by
5 chapter 88 of the laws of 2017, is amended to read as follows:

6 § 514. [~~Industrial—hemp~~] Hemp workgroup. The commissioner shall
7 appoint a New York state [~~industrial~~] hemp workgroup, composed of
8 researchers, producers, processors and manufacturers, serving two-year
9 terms, to make recommendations concerning research topics for the
10 [~~industrial~~] hemp research pilot program, state and federal policies and
11 policy initiatives, and opportunities for the promotion and marketing of
12 [~~industrial~~] hemp as consistent with federal and state laws, rules and
13 regulations, which workgroup shall continue for such time as the commis-
14 sioner deems appropriate.

15 § 11. The agriculture and markets law is amended by adding six new
16 sections 515, 516, 517, 518, 519, and 520 to read as follows:

17 § 515. Food and food products containing hemp not adulterated.
18 Notwithstanding any other provision of law to the contrary, food or food
19 products that contain hemp or any part of the hemp plant, including the
20 seeds and all naturally occurring cannabinoids, compounds, concentrates,
21 extracts, isolates, resins, isomers, acids, salts, salts of isomers or
22 cannabidiol derivatives, shall not be considered to be adulterated or
23 misbranded under this article based solely on the inclusion of hemp or
24 any part of the hemp plant. The nonpharmaceutical or nonmedical
25 production, marketing, sale or distribution of food or food products
26 within the state that contain hemp or any part of the hemp plant shall
27 not be restricted or prohibited within the state based solely on the
28 inclusion of hemp or any part of the hemp plant. A food establishment
29 may not make any claims that food or food products that contain hemp can
30 treat, cure or prevent any disease without approval pursuant to federal
31 law.

32 § 516. Hemp fees. The department shall establish an application fee, a
33 license fee and per acre fees for monitoring, sampling and testing which
34 are reasonable and necessary to cover the costs of the department.

35 § 517. Unrefined raw oil. Processed unrefined raw oil often contains
36 more tetrahydrocannabinol than the permissible amount under state and
37 federal law. The state of New York shall allow licensed processors to
38 possess, transport and sell raw oil to other licensed manufacturers of
39 hemp products.

40 § 518. Food safety and testing. The department through the division of
41 food safety and inspection shall oversee the use of hemp in the manufac-
42 turing, processing, handling, rendering and/or packaging of various
43 types of food. Manufacturers of hemp derived products for human consump-
44 tion shall be responsible for meeting the tetrahydrocannabinol compli-
45 ance threshold and complying with applicable food manufacturing laws.
46 Manufacturers shall use approved third party labs and maintain strict
47 record keeping for potential inspection by the division. Hemp used in
48 food products shall be tested for heavy metals, pesticides, residual
49 solvents, yeast and molds. The division shall allow accredited third
50 party lab testing and conduct spot audits to ensure compliance.

51 § 519. Hemp derived cannabinoids in food. The department shall create
52 appropriate labeling requirements, including, but not limited to, the
53 amount of cannabidiol in a product. If the department determines that it
54 requires additional data involving a particular cannabinoid, then it
55 shall provide funds for research to assist in gathering such additional
56 data. Cannabinoids and terpenes used in products must be sourced from

1 growers and processors in the state of New York, if available, to ensure
2 oversight of quality and safety of hemp derived products.

3 § 520. Field testing. A field test shall be developed by the commis-
4 sioner. The field testing protocol shall be conducted by hemp growers
5 with the possibility of random spot testing by inspectors. These tests
6 shall be a representative sample of flowers and leaves from the whole
7 plant in compliance with United States department of agriculture regu-
8 lations and the department. The state shall allow growers to use state
9 approved laboratories, and shall create a cannabinoid working group to
10 address ongoing issues with field testing.

11 § 12. This act shall take effect immediately.