

STATE OF NEW YORK

S. 7509--A

A. 9509--A

SENATE - ASSEMBLY

January 22, 2020

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

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

AN ACT to amend part U of chapter 59 of the laws of 2017, amending the tax law, relating to the financial institution data match system for state tax collection purposes, in relation to making such provisions permanent; and to amend part Q of chapter 59 of the laws of 2013, amending the tax law relating to serving an income execution with respect to individual tax debtors without filing a warrant, in relation to making such provisions permanent (Part A); to amend the tax law, in relation to extending hire a veteran credit for an additional two years (Part B); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effectiveness thereof (Part C); to amend the tax law, in relation to reducing the burden on small businesses (Part D); to amend the tax law, in relation to capping the maximum amount of the long-term care insurance credit (Part E); to amend the tax law and the administrative code of the city of New York, in relation to allowing the department of taxation and finance to provide taxpayers with unclaimed tax benefits relating to the earned income credit and deductions (Part F); to amend the tax law, in relation to the definition of a qualifying child for purposes of the empire state child credit (Part G); to amend the tax law, in relation to reforming the tobacco products tax (Part H); to amend the alcoholic beverage control law and the tax law, in relation to the suspension and revocation of certain licenses and certificates issued under such laws (Part I); to amend the tax law, in relation to the tax imposed on alcoholic beverages and the annual reporting requirements imposed on alcoholic beverage producers (Part J); to amend the tax law, in relation to updating the criminal tax fraud statutes and to establish the offenses of crim-

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

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inal tax preparation in the second degree and criminal tax preparation in the first degree (Part K); to amend the economic development law and the tax law, in relation to the excelsior jobs program and certain incentives for green projects within such program (Part L); to amend the tax law, in relation to the empire state film production credit and the empire state film post production credit (Part M); to amend the real property tax law, in relation to converted condominiums (Part N); to amend the tax law, in relation to state support for the local enforcement of past-due property taxes (Part O); to amend the real property tax law, in relation to providing for the appointment of an acting director of real property tax services in the event the position becomes vacant (Part P); to amend the real property law and tax law, in relation to the electronic submission of consolidated real property transfer forms; and to repeal paragraphs vii and viii of subdivision 1-e of section 333 of the real property law relating thereto (Part Q); to amend the public lands law, the real property law, and the real property tax law, in relation to the functions of the state board of real property tax services; and to repeal certain provisions of the real property tax law related thereto (Part R); to repeal certain provisions of the real property tax law and the tax law, in relation to removing references to the former STAR offset program (Part S); to amend the real property tax law, in relation to assessment ceilings for railroads and local public utility mass real property; and to repeal section 3 of chapter 475 of the laws of 2013 amending the real property tax law relating to assessment ceilings for local public utility mass real property (Part T); to amend the real property tax law, in relation to extending the period for enrollment in the STAR income verification program (Part U); to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to financing and constructing a new equine drug testing laboratory (Part V); to amend the racing, pari-mutuel wagering and breeding law, in relation to enacting the interstate compact on anti-doping and drug testing standards (Part W); to amend the racing, pari-mutuel wagering and breeding law, in relation to restrictions on sports wagering lounges in casinos (Part X); to amend the tax law, in relation to a keno style lottery game (Part Y); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and to amend chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part Z); to amend the real property tax law, in relation to the income limit for the basic STAR exemption (Part AA); and relating to constituting a new chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the vehicle and traffic law, in relation to making technical

changes regarding the definition of cannabis; to amend the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; to amend the tax law, in relation to providing for the levying of taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the alcoholic beverage control law, the general obligations law, the social services law, the state finance law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal title 5-A of article 33 of the public health law relating to medical use of marihuana; to repeal article 29-A of the agriculture and markets law relating to the regulation of hemp extract; to repeal subdivision 4 of section 220.06 and subdivision 10 of section 220.09 of the penal law relating to criminal possession of a controlled substance; to repeal sections 221.10 and 221.30 of the penal law relating to the criminal possession of marihuana; and to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia (Part BB)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2020-2021
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through BB. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, including
7 the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Section 2 of part U of chapter 59 of the laws of 2017,
14 amending the tax law, relating to the financial institution data match
15 system for state tax collection purposes, is amended to read as follows:

16 § 2. This act shall take effect immediately [~~and shall expire April 1,~~
17 ~~2020 when upon such date the provisions of this act shall be deemed~~
18 ~~repealed~~].

19 § 2. Section 2 of part Q of chapter 59 of the laws of 2013, amending
20 the tax law, relating to serving an income execution with respect to
21 individual tax debtors without filing a warrant, as amended by section 1
22 of part X of chapter 59 of the laws of 2017, is amended to read as
23 follows:

24 § 2. This act shall take effect immediately [~~and shall expire and be~~
25 ~~deemed repealed on and after April 1, 2020~~].

26 § 3. This act shall take effect immediately.

1

PART B

2 Section 1. Paragraph (a) and subparagraph 2 of paragraph (b) of subdivi-
3 sion 29 of section 210-B of the tax law, as amended by section 1 of
4 part Q of chapter 59 of the laws of 2018, are amended to read as
5 follows:

6 (a) Allowance of credit. For taxable years beginning on or after Janu-
7 ary first, two thousand fifteen and before January first, two thousand
8 [~~twenty-one~~] twenty-three, a taxpayer shall be allowed a credit, to be
9 computed as provided in this subdivision, against the tax imposed by
10 this article, for hiring and employing, for not less than one year and
11 for not less than thirty-five hours each week, a qualified veteran with-
12 in the state. The taxpayer may claim the credit in the year in which the
13 qualified veteran completes one year of employment by the taxpayer. If
14 the taxpayer claims the credit allowed under this subdivision, the
15 taxpayer may not use the hiring of a qualified veteran that is the basis
16 for this credit in the basis of any other credit allowed under this
17 article.

18 (2) who commences employment by the qualified taxpayer on or after
19 January first, two thousand fourteen, and before January first, two
20 thousand [~~twenty~~] twenty-two; and

21 § 2. Paragraph 1 and subparagraph (B) of paragraph 2 of subsection
22 (a-2) of section 606 of the tax law, as amended by section 2 of part Q
23 of chapter 59 of the laws of 2018, are amended to read as follows:

24 (1) Allowance of credit. For taxable years beginning on or after Janu-
25 ary first, two thousand fifteen and before January first, two thousand
26 [~~twenty-one~~] twenty-three, a taxpayer shall be allowed a credit, to be
27 computed as provided in this subsection, against the tax imposed by this
28 article, for hiring and employing, for not less than one year and for
29 not less than thirty-five hours each week, a qualified veteran within
30 the state. The taxpayer may claim the credit in the year in which the
31 qualified veteran completes one year of employment by the taxpayer. If
32 the taxpayer claims the credit allowed under this subsection, the
33 taxpayer may not use the hiring of a qualified veteran that is the basis
34 for this credit in the basis of any other credit allowed under this
35 article.

36 (B) who commences employment by the qualified taxpayer on or after
37 January first, two thousand fourteen, and before January first, two
38 thousand [~~twenty~~] twenty-two; and

39 § 3. Paragraph 1 and subparagraph (B) of paragraph 2 of subdivision
40 (g-1) of section 1511 of the tax law, as amended by section 3 of part Q
41 of chapter 59 of the laws of 2018, are amended to read as follows:

42 (1) Allowance of credit. For taxable years beginning on or after Janu-
43 ary first, two thousand fifteen and before January first, two thousand
44 [~~twenty-one~~] twenty-three, a taxpayer shall be allowed a credit, to be
45 computed as provided in this subdivision, against the tax imposed by
46 this article, for hiring and employing, for not less than one year and
47 for not less than thirty-five hours each week, a qualified veteran with-
48 in the state. The taxpayer may claim the credit in the year in which
49 the qualified veteran completes one year of employment by the taxpayer.
50 If the taxpayer claims the credit allowed under this subdivision, the
51 taxpayer may not use the hiring of a qualified veteran that is the basis
52 for this credit in the basis of any other credit allowed under this
53 article.

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand ~~[twenty]~~ twenty-two; and

§ 4. This act shall take effect immediately.

PART C

Section 1. Section 2 of chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, as amended by section 1 of part I of chapter 59 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1992; provided, however that any charges imposed by section 593 of the real property tax law as added by section one of this act shall first be due for values for assessment rolls with tentative completion dates after July 1, 1992, and provided further, that this act shall remain in full force and effect until March 31, ~~[2021]~~ 2024, at which time section 593 of the real property tax law as added by section one of this act shall be repealed.

§ 2. This act shall take effect immediately.

PART D

Section 1. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(iv) for taxable years beginning before January first, two thousand sixteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars. For taxable years beginning on or after January first, two thousand twenty-one the amount shall be four percent of the taxpayer's business income base;

§ 2. Paragraph (d) of subdivision 1 of section 210-B of the tax law, as amended by section 31 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(d) Except as otherwise provided in this paragraph, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit allowed for a taxable year commencing prior to January first, nineteen hundred eighty-seven and not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years but in no event shall such credit be carried over to taxable years commencing on

1 or after January first, two thousand two, and any amount of credit
2 allowed for a taxable year commencing on or after January first, nine-
3 teen hundred eighty-seven and not deductible in such year may be carried
4 over to the fifteen taxable years next following such taxable year and
5 may be deducted from the taxpayer's tax for such year or years. In lieu
6 of such carryover, any such taxpayer which qualifies as a new business
7 under paragraph (f) of this subdivision or a taxpayer that qualifies as
8 an eligible farmer for purposes of paragraph (b) of subdivision eleven
9 of this section may elect to treat the amount of such carryover as an
10 overpayment of tax to be credited or refunded in accordance with the
11 provisions of section ten hundred eighty-six of this chapter, provided,
12 however, the provisions of subsection (c) of section ten hundred eight-
13 y-eight of this chapter notwithstanding, no interest shall be paid there-
14 on.

15 § 3. Paragraph 5 of subsection (a) of section 606 of the tax law, as
16 amended by chapter 170 of the laws of 1994, is amended to read as
17 follows:

18 (5) If the amount of credit allowable under this subsection for any
19 taxable year shall exceed the taxpayer's tax for such year, the excess
20 allowed for a taxable year commencing prior to January first, nineteen
21 hundred eighty-seven may be carried over to the following year or years
22 and may be deducted from the taxpayer's tax for such year or years, but
23 in no event shall such credit be carried over to taxable years commenc-
24 ing on or after January first, nineteen hundred ninety-seven, and any
25 amount of credit allowed for a taxable year commencing on or after Janu-
26 ary first, nineteen hundred eighty-seven and not deductible in such year
27 may be carried over to the ten taxable years next following such taxable
28 year and may be deducted from the taxpayer's tax for such year or years.
29 In lieu of carrying over any such excess, a taxpayer who qualifies as an
30 owner of a new business for purposes of paragraph ten of this subsection
31 or a taxpayer who qualifies as an eligible farmer for purposes of para-
32 graph two of subsection (n) of this section may, at his option, receive
33 such excess as a refund. Any refund paid pursuant to this paragraph
34 shall be deemed to be a refund of an overpayment of tax as provided in
35 section six hundred eighty-six of this article, provided, however, that
36 no interest shall be paid thereon.

37 § 4. Paragraph 39 of subsection (c) of section 612 of the tax law, as
38 added by section 1 of part Y of chapter 59 of the laws of 2013, is
39 amended to read as follows:

40 (39) In the case of a taxpayer who is a small business who has busi-
41 ness income and/or farm income as defined in the laws of the United
42 States, an amount equal to three percent of the net items of income,
43 gain, loss and deduction attributable to such business or farm entering
44 into federal adjusted gross income, but not less than zero, for taxable
45 years beginning after two thousand thirteen, an amount equal to three
46 and three-quarters percent of the net items of income, gain, loss and
47 deduction attributable to such business or farm entering into federal
48 adjusted gross income, but not less than zero, for taxable years begin-
49 ning after two thousand fourteen, [and] an amount equal to five percent
50 of the net items of income, gain, loss and deduction attributable to
51 such business or farm entering into federal adjusted gross income, but
52 not less than zero, for taxable years beginning after two thousand
53 fifteen, and an amount equal to fifteen percent of the net items of
54 income, gain, loss and deduction attributable to such business or farm
55 entering into federal adjusted gross income, but not less than zero, for
56 taxable years beginning after two thousand twenty. For the purposes of

1 this paragraph, the term small business shall mean a sole proprietor or
2 a farm business who employs one or more persons during the taxable year
3 and who has net business income or net farm income of less than two
4 hundred fifty thousand dollars.

5 § 5. Paragraph 1 of subsection (c) of section 1085 of the tax law, as
6 amended by section 4 of part KK of chapter 59 of the laws of 2018, is
7 amended to read as follows:

8 (1) If any taxpayer, except a New York S corporation as defined in
9 subdivision one-A of section two hundred eight of this chapter, fails to
10 file a declaration of estimated tax under article nine-A of this chap-
11 ter, or fails to pay all or any part of an amount which is applied as an
12 installment against such estimated tax, it shall be deemed to have made
13 an underpayment of estimated tax. There shall be added to the tax for
14 the taxable year an amount at the underpayment rate set by the commis-
15 sioner pursuant to section one thousand ninety-six of this article, or
16 if no rate is set, at the rate of seven and one-half percent per annum
17 upon the amount of the underpayment for the period of the underpayment
18 but not beyond the fifteenth day of the fourth month following the close
19 of the taxable year. Provided, however, that, for taxable years begin-
20 ning on or after January first, two thousand seventeen and before Janu-
21 ary first, two thousand eighteen, no amount shall be added to the tax
22 with respect to the portion of such tax related to the amount of any
23 interest deductions directly or indirectly attributable to the amount
24 included in exempt CFC income pursuant to subparagraph (ii) of paragraph
25 (b) of subdivision six-a of section two hundred eight of this chapter or
26 the forty percent reduction of such exempt CFC income in lieu of inter-
27 est attribution if the election described in paragraph (b) of subdivi-
28 sion six-a of such section is made. The amount of the underpayment shall
29 be, with respect to any installment of estimated tax computed on the
30 basis of either the preceding year's tax or the second preceding year's
31 tax, the excess of the amount required to be paid over the amount, if
32 any, paid on or before the last day prescribed for such payment or, with
33 respect to any other installment of estimated tax, the excess of the
34 amount of the installment which would be required to be paid if the
35 estimated tax were equal to ninety-one percent of the tax shown on the
36 return for the taxable year (or if no return was filed, ninety-one
37 percent of the tax for such year) over the amount, if any, of the
38 installment paid on or before the last day prescribed for such payment.
39 In any case in which there would be no underpayment if "eighty percent"
40 were substituted for "ninety-one percent" each place it appears in this
41 subsection, the addition to the tax shall be equal to seventy-five
42 percent of the amount otherwise determined. No underpayment shall be
43 deemed to exist with respect to a declaration or installment otherwise
44 due on or after the termination of existence of the taxpayer.

45 § 6. This act shall take effect immediately; provided however that
46 sections two and three of this act shall apply to property acquired by
47 purchase on or after January 1, 2021, and section five of this act shall
48 apply to taxable years beginning on or after January 1, 2020.

49 PART E

50 Section 1. Paragraph 1 of subsection (aa) of section 606 of the tax
51 law, as amended by section 1 of part P of chapter 61 of the laws of
52 2005, is amended to read as follows:

53 (1) Residents. ~~[A-taxpayer]~~ There shall be allowed a credit against
54 the tax imposed by this article in an amount equal to twenty percent of

1 the [~~premium~~] premiums paid during the taxable year for long-term care
2 insurance. The credit amount shall not exceed one thousand five hundred
3 dollars and shall be allowed only if the amount of New York adjusted
4 gross income required to be reported on the return is less than two
5 hundred fifty thousand dollars. In order to qualify for such credit, the
6 taxpayer's premium payment must be for the purchase of or for continuing
7 coverage under a long-term care insurance policy that qualifies for such
8 credit pursuant to section one thousand one hundred seventeen of the
9 insurance law. If the amount of the credit allowable under this
10 subsection for any taxable year shall exceed the taxpayer's tax for such
11 year, the excess may be carried over to the following year or years and
12 may be deducted from the taxpayer's tax for such year or years.

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

15 PART F

16 Section 1. Paragraph 6 of subsection (d) of section 606 of the tax
17 law, as amended by section 3 of part V of chapter 60 of the laws of
18 2004, is amended to read as follows:

19 (6) Notification. (A) The commissioner shall periodically, but not
20 less than every three years, make efforts to alert taxpayers that may be
21 currently eligible to receive the credit provided under this subsection,
22 and the credit provided under any local law enacted pursuant to
23 subsection (f) of section thirteen hundred ten of this chapter, as to
24 their potential eligibility. In making the determination of whether a
25 taxpayer may be eligible for such credit, the commissioner shall use
26 such data as may be appropriate and available, including, but not limit-
27 ed to, data available from the United States Department of Treasury,
28 Internal Revenue Service and New York state income tax returns for
29 preceding tax years.

30 (B) If the department determines that the taxpayer is eligible to
31 receive the credit provided under this subsection but has not claimed
32 such credit on his or her return, the department, at its discretion, may
33 compute the taxpayer's liability and allow the credit, and, if applica-
34 ble, issue any refund for the allowable credit amount provided under
35 this subsection. Any refund paid pursuant to this subparagraph shall be
36 deemed to be a refund of an overpayment of tax as provided in section
37 six hundred eighty-six of this article, provided, however, that no
38 interest shall be paid thereon.

39 § 2. Subsection (f) of section 1310 of the tax law is amended by
40 adding a new paragraph 6 to read as follows:

41 (6) If the department determines that the taxpayer is eligible to
42 receive the credit provided under this subsection but has not claimed
43 such credit on his or her return, the department, at its discretion, may
44 compute and issue any refund for the allowable credit amount provided
45 under this subsection. Any refund paid pursuant to this paragraph shall
46 be deemed to be a refund of an overpayment of tax as provided in section
47 six hundred eighty-six of this chapter, provided, however, that no
48 interest shall be paid thereon.

49 § 3. Section 613 of the tax law, as added by chapter 563 of the laws
50 of 1960, is amended to read as follows:

51 § 613. New York deduction of a resident individual. The New York
52 deduction of a resident individual shall be his New York standard
53 deduction unless he elects to deduct his New York itemized deduction
54 under the conditions set forth in section six hundred fifteen of this

1 article. If an individual taxpayer has elected to deduct his New York
2 itemized deduction computed pursuant to section six hundred fifteen of
3 this article, but the department determines that the New York standard
4 deduction allowable pursuant to section six hundred fourteen of this
5 article is greater, the department may recompute the taxpayer's tax
6 liability pursuant to section six hundred eleven of this article using
7 the New York standard deduction provided in section six hundred fourteen
8 of this article. The department will notify the taxpayer of any adjust-
9 ment to the election.

10 § 4. Subdivision (d) of section 11-1706 of the administrative code of
11 the city of New York is amended by adding a new paragraph 5 to read as
12 follows:

13 (5) If the state commissioner of taxation and finance determines that
14 the taxpayer is eligible to receive the credit provided under this
15 subdivision but has not claimed such credit on his or her return, the
16 state commissioner of taxation and finance, at his or her discretion,
17 may compute and issue any refund for the allowable credit amount
18 provided under this subdivision. Any refund paid pursuant to this para-
19 graph shall be deemed to be a refund of an overpayment of tax as
20 provided in section 11-1786 of this title, provided, however, that no
21 interest shall be paid thereon.

22 § 5. This act shall take effect immediately.

23 PART G

24 Section 1. Paragraph 1 of subsection (c-1) of section 606 of the tax
25 law, as amended by section 1 of part P of chapter 59 of the laws of
26 2018, is amended to read as follows:

27 (1) A resident taxpayer shall be allowed a credit as provided herein
28 equal to the greater of one hundred dollars times the number of qualify-
29 ing children of the taxpayer or the applicable percentage of the child
30 tax credit allowed the taxpayer under section twenty-four of the inter-
31 nal revenue code for the same taxable year for each qualifying child.
32 Provided, however, in the case of a taxpayer whose federal adjusted
33 gross income exceeds the applicable threshold amount set forth by
34 section 24(b)(2) of the Internal Revenue Code, the credit shall only be
35 equal to the applicable percentage of the child tax credit allowed the
36 taxpayer under section 24 of the Internal Revenue Code for each qualify-
37 ing child. For the purposes of this subsection, a qualifying child shall
38 be a child who meets the definition of qualified child under section
39 24(c) of the internal revenue code and is at least four years of age.
40 Provided, however, in the case of a resident taxpayer with a New York
41 state adjusted gross income of fifty thousand dollars or less, a quali-
42 fying child shall be a child who meets the definition of a qualifying
43 child under section 24(c) of the Internal Revenue Code. The applicable
44 percentage shall be thirty-three percent. For purposes of this
45 subsection, any reference to section 24 of the Internal Revenue Code
46 shall be a reference to such section as it existed immediately prior to
47 the enactment of Public Law 115-97.

48 § 2. This act shall take effect immediately and shall apply to taxable
49 years beginning on and after January 1, 2021.

50 PART H

51 Section 1. Subdivision 6 of section 470 of the tax law, as added by
52 chapter 61 of the laws of 1989, is amended to read as follows:

6. "Wholesale price." The ~~[established]~~ price for which a manufacturer or other person sells tobacco products to a distributor, including the federal excise taxes paid by the manufacturer or other person, before the allowance of any discount, trade allowance, rebate or other reduction.

~~[In the absence of such an established price, a manufacturer's]~~ The invoice ~~[price of any]~~ received by a distributor with respect to its purchase of a tobacco product shall be presumptive evidence of the wholesale price of such tobacco product~~[, and in its absence the price at which such tobacco products were purchased shall be presumed to be the wholesale price, unless evidence of a lower wholesale price shall be established or any industry standard of markups relating to the purchase price in relation to the wholesale price shall be established]~~.

§ 2. Subdivision 3 of section 481 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

3. (a) For purposes of this chapter, the certificate of the commissioner of taxation and finance to the effect that a tax or fee imposed by this article has not been paid, that a return required by or under the provisions of this article has not been filed, or that information has not been supplied, as required by or under the provisions of this article, or that a bond or other security required by or pursuant to the provisions of this article has not been filed, or that books, accounts, records, memoranda, documents or papers have not been supplied as required by or pursuant to the authority of this article, or that a retail dealer or vending machine owner or operator is not currently or validly registered as required by this article shall be prima facie evidence that such tax or fee has not been paid, such return not filed, such information not supplied, such bond or other security not filed, that such books, accounts, records, memoranda, documents or papers have not been supplied, or that such retail dealer or vending machine owner or operator is not currently or validly registered.

(b) Any person required to make or maintain records under this article who fails to maintain or make available such records may be subject to a penalty not to exceed one thousand dollars for each monthly reporting period or part thereof for which records are not maintained or provided by such person. This penalty is in addition to any other penalty provided for in this article, but will not be imposed and collected more than once for such failures for the same reporting period or part thereof. If the commissioner determines that any failure described in this subdivision for a given reporting period was entirely due to reasonable cause and not to willful neglect, the commissioner may waive the penalty imposed for that period. The penalties imposed by this subdivision will be paid and disposed of in the same manner as other revenues from this article. These penalties will be determined, assessed, collected, paid and enforced in the same manner as the tax imposed by this article, and all the provisions of this article relating to tax will be deemed also to apply to the penalties imposed by this subdivision.

§ 3. This act shall take effect on October 1, 2020; provided however, that section one of this act shall apply to all tobacco products possessed in this state for sale on or after such date.

PART I

Section 1. Section 17 of the alcoholic beverage control law is amended by adding a new subdivision 3-a to read as follows:

1 3-a. To suspend or cancel any license pursuant to and corresponding in
2 duration with an action of the commissioner of taxation and finance
3 under subdivision four of section four hundred eighty-a of the tax law.
4 A suspension or cancellation under this subdivision shall be initiated
5 upon receipt by the authority of notice from the commissioner of taxa-
6 tion and finance of such action under subdivision four of section four
7 hundred eighty-a of the tax law and shall be effective upon service of
8 an order by the authority served at the licensed premises. Such suspen-
9 sion or cancellation issued by the authority shall be appealable only as
10 provided for in paragraph (b) of subdivision four of section four
11 hundred eighty-a of the tax law. The power to issue such suspensions or
12 cancellations may be delegated to the chairman, or to such other offi-
13 cers or employees as may be designated by the chairman.

14 § 2. Subdivision 9 of section 470 of the tax law, as amended by chap-
15 ter 61 of the laws of 1989, is amended to read as follows:

16 9. "Retail dealer." Any person other than a wholesale dealer engaged
17 in selling cigarettes or tobacco products. For purposes of section four
18 hundred eighty-a of this article and section eleven hundred thirty-four
19 of this chapter, such term shall include for each such person engaged in
20 selling cigarettes or tobacco products all "persons required to collect
21 tax," as defined in subdivision one of section eleven hundred thirty-one
22 of this chapter.

23 § 3. Section 470 of the tax law is amended by adding a new subdivision
24 21 to read as follows:

25 21. "Affiliated person." Persons are affiliated persons with respect
26 to each other where one of such persons has an ownership interest of
27 more than five percent, whether direct or indirect, in the other, or
28 where an ownership interest of more than five percent, whether direct or
29 indirect, is held in each of such persons by another person, or by a
30 group of other persons that are affiliated persons with respect to each
31 other.

32 § 3-a. Subdivision 1 of section 480-A of the tax law is amended by
33 adding new paragraph (f), to read as follows:

34 (f) In addition to the grounds for refusal of a registration specified
35 in section eleven hundred thirty-four of this chapter, the commissioner
36 may refuse to register any person as a retail dealer where any tax under
37 this chapter, or a tax or fee administered by the commissioner under any
38 other law, has been finally determined to be due from such person, or
39 from a person required to collect tax with respect to such person or
40 another person, and has not been paid.

41 § 3-b. Paragraph (d) of subdivision 2 of section 480-A of the Tax Law,
42 as amended by chapter 760 of the laws of 1992, is amended to read as
43 follows:

44 (d) Except as otherwise provided in this section, all the provisions
45 of article twenty-eight of this chapter relating to the personal liabil-
46 ity for the tax, administration, collection and determination of tax,
47 and deposit and disposition of revenue, including section eleven hundred
48 thirty-eight of this chapter relating to determination of tax and
49 section eleven hundred forty-five of this chapter (but only paragraphs
50 one and two of subdivision (a) of such section) relating to penalties
51 and interest for failure to file a return or pay tax within the time
52 required, shall apply to the applications for registration and the fees
53 for filing such applications required by this section and the penalty
54 imposed pursuant to subdivision three of this section, as if such appli-
55 cations were returns required under section eleven hundred thirty-six of
56 this chapter and such filing fees, penalties and interest were taxes

1 required to be paid pursuant to such article twenty-eight, in the same
2 manner and with the same force and effect as if the language of such
3 provisions of such article twenty-eight had been incorporated in full
4 into this article, except to the extent that any such provision is
5 either inconsistent with a provision of this section or is not relevant
6 thereto and with such other modifications as may be necessary to adapt
7 the language of such provisions to the provisions of this section.

8 ~~[Section eleven hundred thirty-four of such article twenty-eight shall
9 not apply to this section.]~~ Provided, however, that the commissioner of

10 taxation and finance shall refund or credit an application fee paid with
11 respect to the registration of a vending machine or a retail place of
12 business in this state through which cigarettes or tobacco products were
13 to be sold if, prior to the beginning of the calendar year with respect
14 to which such registration relates, the certificate of registration
15 described in paragraph (a) of this subdivision is returned to the
16 department of taxation and finance, or if such certificate has been
17 destroyed, the retail dealer or vending machine operator satisfactorily
18 accounts to the commissioner for the missing certificate, but such vend-
19 ing machine or retail place of business may not be used to sell ciga-
20 rettes or tobacco products in this state during such calendar year,
21 unless it is re-registered. The provisions of section eleven hundred
22 thirty-nine of this chapter shall apply to the refund or credit author-
23 ized by the preceding sentence and for such purposes, such refund or
24 credit shall be deemed a refund of tax paid in error provided, however,
25 no interest shall be allowed or paid on any such refund.

26 § 4. Subdivision 4 of section 480-a of the tax law, as added by chap-
27 ter 629 of the laws of 1996, paragraph (d) as amended by chapter 262 of
28 the laws of 2000, is amended to read as follows:

29 4. (a) If a retail dealer possesses or sells unstamped or unlawfully
30 stamped packages of cigarettes, or if a retail dealer is also licensed
31 as an agent pursuant to section four hundred seventy-two and it
32 possesses unlawfully stamped packages of cigarettes or sells unstamped
33 or unlawfully stamped packages of cigarettes at retail, (i) its regis-
34 tration shall be ~~[suspended]~~ revoked for a period of ~~[not more than six~~
35 ~~months]~~ one year, or (ii) for a second such possession or sale within a
36 period of five years~~[, its]~~ by a retail dealer or any affiliated person
37 of such retail dealer, the registration of such retail dealer and the
38 registration of any retail dealer that is an affiliated person of such
39 retail dealer shall be ~~[suspended]~~ revoked for a period of ~~[up to thir-~~
40 ~~ty-six months]~~ three years, or (iii) for a third such possession or sale
41 within a period of five years~~[, its]~~ by a retail dealer or any affil-
42 iated person of such retail dealer, the registration [may] of such
43 retail dealer and the registration of any retail dealer that is an
44 affiliated person of such retail dealer shall be revoked for a period of
45 ~~[up to]~~ five years. A retail dealer registration shall be ~~[suspended or]~~
46 revoked pursuant to this subdivision immediately upon such dealer's
47 receipt of written notice of ~~[suspension or]~~ revocation from the commis-
48 sioner. ~~[If a retail dealer sells cigarettes through more than one place~~
49 ~~of business in this state, the retail dealer registration shall not be~~
50 ~~suspended or revoked pursuant to this subdivision, but the certificate~~
51 ~~of registration issued to the place of business, cart, stand, truck or~~
52 ~~other merchandising device where unstamped or unlawfully stamped ciga-~~
53 ~~rettes were found shall be suspended or cancelled for possession or sale~~
54 ~~of unstamped or unlawfully stamped packages of cigarettes, as if such~~
55 ~~certificate of registration were a retail dealer registration. A suspen-~~
56 ~~sion or cancellation of a certificate of registration shall be treated~~

1 ~~as if it were a suspension or revocation of a registration.~~ If
2 unstamped or unlawfully stamped cigarettes are found in a retail deal-
3 er's warehouse or a warehouse of any affiliated person of such retail
4 dealer, the [~~suspension or~~] revocation of the retail dealer's registra-
5 tion pursuant to this subdivision shall be applicable to each retail
6 place of business in this state through which such retail dealer and any
7 affiliated person of such retail dealer sells cigarettes.

8 (b) A retail dealer who is notified of a [~~suspension or~~] revocation of
9 its registration pursuant to this subdivision shall have the right to
10 have the [~~suspension or~~] revocation reviewed by the commissioner or his
11 or her designee by contacting the department at a telephone number or an
12 address to be disclosed in the notice of [~~suspension or~~] revocation
13 within ten days of such dealer's receipt of such notification. The
14 retail dealer may present written evidence or argument in support of its
15 defense to the [~~suspension or~~] revocation, or may appear at a scheduled
16 conference with the commissioner or his or her designee to present oral
17 arguments and written and oral evidence in support of such defense. The
18 commissioner or his or her designee is authorized to delay the effective
19 date of the [~~suspension or~~] revocation to enable the retail dealer to
20 present further evidence or arguments in connection with the [~~suspension~~
21 ~~or~~] revocation. The commissioner or his or her designee shall cancel the
22 [~~suspension or~~] revocation of registration if the commissioner or his or
23 her designee is not satisfied by a preponderance of the evidence that
24 the retail dealer possessed or sold unstamped or unlawfully stamped
25 packages of cigarettes.

26 (c) An order of [~~suspension or~~] revocation of a retail dealer regis-
27 tration shall not be reviewable by the division of tax appeals, but may
28 be reviewed pursuant to article seventy-eight of the civil practice law
29 and rules by a proceeding commenced in the supreme court within four
30 months of the [~~suspension or~~] revocation of registration petitioning
31 that the order of [~~suspension or~~] revocation be enjoined or set aside.
32 Such proceeding shall be instituted in the county where the commissioner
33 has his or her principal office. Upon the filing of such petition the
34 court shall have jurisdiction to set aside such order of [~~suspension or~~]
35 revocation, in whole or in part, or to dismiss the petition. The juris-
36 diction of the supreme court shall be exclusive and its order dismissing
37 the petition or enjoining or setting aside such order, in whole or in
38 part, shall be final, subject to review by the appellate division of the
39 supreme court and the court of appeals in the same manner and form and
40 with the same effect as provided by law for appeals from a judgment in a
41 special proceeding. All such proceedings shall be heard and determined
42 by the court and by any appellate court as expeditiously as possible and
43 with lawful precedence over other civil matters. All such proceedings
44 for review shall be heard on the petition, transcript and other papers,
45 and on appeal shall be heard on the record, without requirement of
46 printing.

47 (d) After review of the [~~suspension or~~] revocation of registration by
48 the commissioner or his or her designee is complete, or the time within
49 which a retail dealer may request such review has expired without such a
50 request having been made, notice of the [~~suspension or~~] revocation of a
51 retail dealer registration pursuant to this subdivision shall be given
52 by the commissioner to the head of the division of the lottery for the
53 purpose of enforcement of section sixteen hundred seven of this chapter
54 ~~[and such division may suspend or revoke any license issued with respect~~
55 ~~to a lottery agent's specific location pursuant to article thirty-four~~
56 ~~of this chapter if such lottery agent is a retail dealer of cigarettes~~

~~whose registration for such location is suspended or revoked pursuant to this section~~. In addition, notice of such ~~[suspension or]~~ revocation shall also be given to the ~~[division of alcoholic beverage control]~~ state liquor authority and such ~~[suspension or]~~ revocation shall constitute cause~~[, for purposes of section one hundred eighteen of the alcoholic beverage control law]~~ for revocation, cancellation or suspension of any license or permit issued pursuant to ~~[such]~~ the alcoholic beverage control law to the retail dealer of cigarettes whose registration is revoked pursuant to this section.

§ 5. Subparagraph (A) of paragraph 4 of subdivision (a) of section 1134 of the tax law, as amended by section 21-a of part U of chapter 61 of the laws of 2011, is amended to read as follows:

(A) Where a person who holds a certificate of authority (i) willfully fails to file a report or return required by this article, (ii) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required under this article which is false, (iii) willfully fails to comply with the provisions of paragraph two or three of subdivision (e) of section eleven hundred thirty-seven of this article, (iv) willfully fails to prepay, collect, truthfully account for or pay over any tax imposed under this article or pursuant to the authority of article twenty-nine of this chapter, (v) fails to obtain a bond pursuant to paragraph two of subdivision (e) of section eleven hundred thirty-seven of this part, or fails to comply with a notice issued by the commissioner pursuant to paragraph three of such subdivision, ~~[or]~~ (vi) has been convicted of a crime provided for in this chapter, or (vii) where such person, or any person affiliated with such person as such term is defined in subdivision twenty-one of section four hundred seventy of this chapter, has had a retail dealer registration issued pursuant to section four hundred eighty-a of this chapter revoked pursuant to paragraph (a) of subdivision four of such section four hundred eighty-a, the commissioner may revoke or suspend such certificate of authority and all duplicates thereof. Provided, however, that the commissioner may revoke or suspend a certificate of authority based on the grounds set forth in clause (vi) of this subparagraph only where the conviction referred to occurred not more than one year prior to the date of revocation or suspension; and provided further that where the commissioner revokes or suspends a certificate of authority based on the grounds set forth in clause (vii) of this subparagraph, such suspension or revocation shall continue for as long as the revocation of the retail dealer registration pursuant to section four hundred eighty-a of this chapter remains in effect.

§ 6. Subparagraph (A) of paragraph 4 of subdivision (a) of section 1134 of the tax law, as amended by chapter 2 of the laws of 1995, is amended to read as follows:

(A) Where a person who holds a certificate of authority (i) willfully fails to file a report or return required by this article, (ii) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required under this article which is false, (iii) willfully fails to comply with the provisions of paragraph two or three of subdivision (e) of section eleven hundred thirty-seven of this article, (iv) willfully fails to prepay, collect, truthfully account for or pay over any tax imposed under this article or pursuant to the authority of article twenty-nine of this chapter, ~~[or]~~ (v) has been convicted of a crime provided for in this chapter, or (vi) where such person, or any person affiliated with such person as such term is defined in subdivision twenty-one of section four hundred seventy of

1 this chapter, has had a retail dealer registration issued pursuant to
2 section four hundred eighty-a of this chapter suspended or revoked
3 pursuant to paragraph (a) of subdivision four of such section four
4 hundred eighty-a, the commissioner may revoke or suspend such certifi-
5 cate of authority and all duplicates thereof. Provided, however, that
6 the commissioner may revoke or suspend a certificate of authority based
7 on the grounds set forth in clause (v) of this subparagraph only where
8 the conviction referred to occurred not more than one year prior to the
9 date of revocation or suspension; and provided further that where the
10 commissioner revokes or suspends a certificate of authority based on the
11 grounds set forth in clause (vi) of this subparagraph, such suspension
12 or revocation shall continue for as long as the revocation of the retail
13 dealer registration pursuant to section four hundred eighty-a of this
14 chapter remains in effect.

15 § 7. Subparagraph (B) of paragraph 4 of subdivision (a) of section
16 1134 of the tax law, as amended by chapter 2 of the laws of 1995, is
17 amended to read as follows:

18 (B) Where a person files a certificate of registration for a certifi-
19 cate of authority under this subdivision and in considering such appli-
20 cation the commissioner ascertains that (i) any tax imposed under this
21 chapter or any related statute, as defined in section eighteen hundred
22 of this chapter, has been finally determined to be due from such person
23 and has not been paid in full, (ii) a tax due under this article or any
24 law, ordinance or resolution enacted pursuant to the authority of arti-
25 cle twenty-nine of this chapter has been finally determined to be due
26 from an officer, director, partner or employee of such person, and,
27 where such person is a limited liability company, also a member or
28 manager of such person, in the officer's, director's, partner's,
29 member's, manager's or employee's capacity as a person required to
30 collect tax on behalf of such person or another person and has not been
31 paid, (iii) such person has been convicted of a crime provided for in
32 this chapter within one year from the date on which such certificate of
33 registration is filed, (iv) an officer, director, partner or employee of
34 such person, and, where such person is a limited liability company, also
35 a member or manager of such person, which officer, director, partner,
36 member, manager or employee is a person required to collect tax on
37 behalf of such person filing a certificate of registration has in the
38 officer's, director's, partner's, member's, manager's or employee's
39 capacity as a person required to collect tax on behalf of such person or
40 of another person been convicted of a crime provided for in this chapter
41 within one year from the date on which such certificate of registration
42 is filed, (v) a shareholder owning more than fifty percent of the number
43 of shares of stock of such person (where such person is a corporation)
44 entitling the holder thereof to vote for the election of directors or
45 trustees, who owned more than fifty percent of the number of such shares
46 of another person (where such other person is a corporation) at the time
47 any tax imposed under this chapter or any related statute as defined in
48 section eighteen hundred of this chapter was finally determined to be
49 due and where such tax has not been paid in full, or at the time such
50 other person was convicted of a crime provided for in this chapter with-
51 in one year from the date on which such certificate of registration is
52 filed, ~~(v)~~ (vi) a certificate of authority issued to such person has
53 been revoked or suspended pursuant to subparagraph (A) of this paragraph
54 within one year from the date on which such certificate of registration
55 is filed, or (vii) a retail dealer registration issued pursuant to
56 section four hundred eighty-a of this chapter to such person, or to any

1 person affiliated with such person as such term is defined in subdivi-
2 sion twenty-one of section four hundred seventy of this chapter, has
3 been revoked pursuant to paragraph (a) of subdivision four of such
4 section four hundred eighty-a, where such revocation remains in effect,
5 the commissioner may refuse to issue a certificate of authority.

6 § 8. Section 1607 of the tax law is amended by adding a new subdivi-
7 sion i to read as follows:

8 i. A lottery sales agent's license shall be suspended or revoked upon
9 notification to the division by the commissioner of the revocation of
10 such agent's retail dealer registration pursuant to subdivision four of
11 section four hundred eighty-a of this chapter. Such suspension or revo-
12 cation shall continue for as long as the revocation of such retail deal-
13 er registration remains in effect. Notwithstanding any other law to the
14 contrary, lottery sales agents shall have no right to a hearing and
15 shall have no right to commence a court action or proceeding or to any
16 other legal recourse against the division with respect to any action
17 taken pursuant to this subdivision. Nothing in this subdivision shall
18 affect the right to review the revocation of a retail dealer registra-
19 tion, or any appeal therefrom, as provided in paragraphs (b) and (c) of
20 subdivision four of section four hundred eighty-a of this chapter.

21 § 9. This act shall take effect September 1, 2020 and shall apply to
22 the possession or sale of unstamped or illegally stamped cigarettes
23 occurring on and after such date; provided, however, that the amendments
24 to section 17 of the alcoholic beverage control law made by section one
25 of this act shall survive the expiration and reversion of such section
26 as provided in section 4 of chapter 118 of the laws of 2012, as amended;
27 provided, further, that the amendments to subparagraph (A) of paragraph
28 4 of subdivision (a) of section 1134 of the tax law made by section five
29 of this act shall not affect the expiration of such subparagraph and
30 shall expire therewith, when upon such date the provisions of section
31 six of this act shall take effect.

32 PART J

33 Section 1. Paragraph (e) of subdivision 1 of section 424 of the tax
34 law, as amended by chapter 190 of the laws of 1990, is amended to read
35 as follows:

36 (e) Sixty-seven cents per liter upon liquors containing not more than
37 twenty-four per centum of alcohol by volume except liquors containing
38 not more than two per centum of alcohol by volume, upon which the tax
39 shall be [~~one cent per liter~~ zero; and

40 § 2. Paragraph (g) of subdivision 1 of section 424 of the tax law, as
41 amended by chapter 433 of the laws of 1978 and the opening paragraph as
42 amended by chapter 508 of the laws of 1993, is amended to read as
43 follows:

44 (g) For purposes of this chapter, it is presumed that liquors are
45 possessed for the purpose of sale in this state if the quantity of
46 liquors possessed in this state, imported or caused to be imported into
47 this state or produced, distilled, manufactured, compounded, mixed or
48 fermented in this state exceeds ninety liters. Such presumption may be
49 rebutted by the introduction of substantial evidence to the contrary. In
50 any case where the quantity of alcoholic beverages taxable pursuant to
51 this article is a fractional part of one liter (or one gallon in the
52 case of beers) or an amount greater than a whole multiple of liters (or
53 gallons in the case of beers), the amount of tax levied and imposed on
54 such fractional part of one liter (or one gallon in the case of beers),

1 or fractional part of a liter (or gallon) in excess of a whole multiple
2 of liters or gallons shall be such fractional part of the rate imposed
3 by paragraphs (a) through (f).

4 Notwithstanding any other provision of this article, the ~~[tax commis-~~
5 ~~sion]~~ commissioner may permit the purchase of ~~[liquors and wines]~~ alco-
6 holic beverages without tax by a person registered as a distributor
7 under section four hundred twenty-one of this article ~~[holder of a~~
8 ~~distiller's license or a winery license, issued by the state liquor~~
9 ~~authority]~~ from another person so registered ~~[holder of a distiller's~~
10 ~~license or a winery license, issued by such authority]~~, in which event
11 the ~~[liquors and wines]~~ alcoholic beverage so purchased shall be subject
12 to the taxes imposed by this article in the hands of the purchaser in
13 the same manner and to the same extent as if such purchaser had imported
14 or caused the same to be imported into this state or had produced,
15 distilled, manufactured, brewed, compounded, mixed or fermented the same
16 within this state.

17 § 3. Subparagraph (C) of paragraph 1 of subdivision (i) of section
18 1136 of the tax law, as separately amended by chapters 229 and 485 of
19 the laws of 2015, is amended, and a new subparagraph (D) is added to
20 read as follows:

21 (C) Every wholesaler, as defined by section three of the alcoholic
22 beverage control law, if it has made a sale of an alcoholic beverage, as
23 defined by section four hundred twenty of this chapter, without collect-
24 ing sales or use tax during the period covered by the return, except (i)
25 a sale to a person that has furnished an exempt organization certificate
26 to the wholesaler for that sale; or (ii) a sale to another wholesaler
27 whose license under the alcoholic beverage control law does not allow it
28 to make retail sales of the alcoholic beverage. For each vendor, opera-
29 tor, or recipient to whom the wholesaler has made a sale without
30 collecting sales or compensating use tax, the return must include the
31 total value of those sales made during the period covered by the return
32 (excepting the sales described in clauses (i) and (ii) of this subpara-
33 graph) and the vendor's, operator's or recipient's state liquor authori-
34 ty license number, along with the information required by paragraph two
35 of this subdivision. ~~[A person operating pursuant to a farm winery~~
36 ~~license as provided in section seventy-six-a of the alcoholic beverage~~
37 ~~control law, or a person operating pursuant to a winery license as~~
38 ~~provided in section seventy-six of the alcoholic beverage control law~~
39 ~~and whose winery manufactures less than one hundred fifty thousand~~
40 ~~finished gallons of wine annually, or a person operating pursuant to a~~
41 ~~farm distillery license as provided in subdivision two-e of section~~
42 ~~sixty-one of such law, or a person operating pursuant to a farm cidery~~
43 ~~license as provided in section fifty-eight-e of the alcoholic beverage~~
44 ~~control law, or a person operating pursuant to a farm brewery license as~~
45 ~~provided in section fifty-one-a of the alcoholic beverage control law,~~
46 ~~or a person operating pursuant to a brewer's license as provided in~~
47 ~~section fifty-one of the alcoholic beverage control law who produces~~
48 ~~less than sixty thousand barrels of beer a year, or a person operating~~
49 ~~pursuant to any combination of such licenses, shall not be subject to~~
50 ~~any of the requirements of this subdivision.]~~

51 (D) Notwithstanding the provisions of subparagraph (C) of this para-
52 graph, a person operating pursuant to any of the following licenses
53 shall not be subject to any of the requirements of this subdivision: (i)
54 a farm winery license, as provided in section seventy-six-a of the alco-
55 holic beverage control law; (ii) a winery license, as provided in
56 section seventy-six of the alcoholic beverage control law, where the

number of gallons of wine, cider and mead produced annually by such person does not exceed the annual limits on the number of finished gallons of wine, cider and mead permitted to be produced by a farm winery under subdivision eight of section seventy-six-a of the alcoholic beverage control law; (iii) a farm distillery license, as provided in subdivision two-c of section sixty-one of the alcoholic beverage control law; (iv) a distiller's license, as provided in section sixty-one of the alcoholic beverage control law, where the number of gallons of liquor produced annually by such person does not exceed the annual limits on the number of gallons of liquor permitted to be produced by a farm distillery under paragraph (f) of subdivision two-c of section sixty-one of the alcoholic beverage control law; (v) a farm cidery license, as provided in section fifty-eight-c of the alcoholic beverage control law; (vi) a cider producers' license, as provided in section fifty-eight of the alcoholic beverage control law, where the number of gallons of cider produced annually by such person does not exceed the annual limits on the number of gallons of cider permitted to be produced by a farm cidery under subdivision ten of section fifty-eight-c of the alcoholic beverage control law; (vii) a farm brewery license, as provided in section fifty-one-a of the alcoholic beverage control law; (viii) a brewer's license, as provided in section fifty-one of the alcoholic beverage control law, where the number of finished barrels of beer, cider and braggot produced annually by such person does not exceed the annual number of finished barrels of beer, cider and braggot permitted to be produced by a farm brewery under subdivision ten of section fifty-one-a of the alcoholic beverage control law; (ix) a farm meadery license, as provided in section thirty-one of the alcoholic beverage control law; or (x) a mead producers' license, as provided in section thirty of the alcoholic beverage control law, where the number of gallons of mead and braggot produced annually by such person does not exceed the annual number of finished barrels of mead and braggot permitted to be produced by a farm meadery under subdivision ten of section thirty-one of the alcoholic beverage control law. Nothing in this subparagraph shall exempt a person operating pursuant to multiple licenses under the alcoholic beverage control law from the requirements of subparagraph (C) of this paragraph if such person produces an amount of any alcoholic beverage in excess of the amounts permitted to be produced annually by a person who holds only a farm winery, farm cidery, farm distillery, farm brewery or farm meadery license for such beverage, nor shall this section exempt any person holding a wholesalers' license under the alcoholic beverage control law from the requirements of subparagraph (C) of this paragraph.

§ 4. This act shall take effect June 1, 2020.

PART K

Section 1. Subdivision (c) of section 1800 of the tax law, as amended by section 13 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(c) As used in this article, the term "felony" and the term "misdemeanor" shall have the same meaning as they have in the penal law, and the disposition of such offenses and the sentences imposed therefor shall be as provided in such law except; (1) notwithstanding the provisions of paragraph a of subdivision one of section 80.00 and paragraph (a) of subdivision one of section 80.10 of the penal law relating to the fine for a felony, the court may impose a fine not to exceed the greater of

double the amount of [~~the underpaid tax liability resulting from the commission of the crime~~] tax liability evaded or fraudulent refund received or applied for as a result of the commission of the crime, or fifty thousand dollars, or, in the case of a corporation the fine may not exceed the greater of double the amount of [~~the underpaid tax liability resulting from the commission of the crime~~] tax liability evaded or fraudulent refund received or applied for as a result of the commission of the crime, or two hundred fifty thousand dollars and (2) notwithstanding the provisions of subdivision one of section 80.05 and paragraph (b) of subdivision one of section 80.10 of the penal law relating to the fine for a class A misdemeanor, the court may impose a fine not to exceed ten thousand dollars, except that in the case of a corporation the fine may not exceed twenty thousand dollars.

§ 2. Section 1803 of the tax law, as added by section 17 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

§ 1803. Criminal tax fraud in the fourth degree. A person commits criminal tax fraud in the fourth degree when he or she commits a tax fraud act or acts and[, ~~with the intent to evade any tax due under this chapter, or to defraud~~] thereby deprives or defrauds the state or any political subdivision [~~thereof, the person pays the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess~~] of the state in an amount exceeding three thousand dollars [~~less than the tax liability that is due~~]. Criminal tax fraud in the fourth degree is a class E felony.

§ 3. Section 1804 of the tax law, as added by section 18 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

§ 1804. Criminal tax fraud in the third degree. A person commits criminal tax fraud in the third degree when he or she commits a tax fraud act or acts and[, ~~with the intent to evade any tax due under this chapter, or to defraud~~] thereby deprives or defrauds the state or any political subdivision of the state[, ~~the person pays the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of~~] in an amount exceeding ten thousand dollars [~~less than the tax liability that is due~~]. Criminal tax fraud in the third degree is a class D felony.

§ 4. Section 1805 of the tax law, as added by section 19 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

§ 1805. Criminal tax fraud in the second degree. A person commits criminal tax fraud in the second degree when he or she commits a tax fraud act or acts and[, ~~with the intent to evade any tax due under this chapter, or to defraud~~] thereby deprives or defrauds the state or any subdivision of the state[, ~~the person pays the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of~~] in an amount exceeding fifty thousand dollars [~~less than the tax liability that is due~~]. Criminal tax fraud in the second degree is a class C felony.

§ 5. Section 1806 of the tax law, as added by section 20 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

§ 1806. Criminal tax fraud in the first degree. A person commits criminal tax fraud in the first degree when he or she commits a tax fraud act or acts and~~[, with the intent to evade any tax due under this chapter, or to defraud]~~ thereby deprives or defrauds the state or any subdivision of the state~~[, the person pays the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of]~~ in an amount exceeding one million dollars ~~[less than the tax liability that is due]~~. Criminal tax fraud in the first degree is a class B felony.

§ 6. Section 1807 of the tax law, as amended by section 5 of subpart A of part S of chapter 57 of the laws of 2010, is amended to read as follows:

§ 1807. Aggregation. For purposes of this article, ~~[the payments due and not paid under a single article of this chapter pursuant to a common scheme or plan or due and not paid, within one year, may be charged in a single count, and the amount of underpaid tax liability incurred, within one year,]~~ (a) the amount deprived or defrauded within a three hundred sixty-five consecutive day period may be aggregated in a single count, or (b) when a person is shown to be acting pursuant to a common plan or scheme constituting a systematic ongoing course of conduct, the total amount deprived or defrauded under such scheme or plan may be charged in a single count.

§ 7. The tax law is amended by adding a new section 1810 to read as follows:

§ 1810. Criminal tax preparation in the second degree. A person commits criminal tax preparation in the second degree when he or she files or causes to be filed ten or more tax returns with the department, within a period of not more than three hundred sixty-five consecutive days, knowing that each contains materially false information or omits material information with the intent to evade or reduce any tax liability owed or to effect or inflate a refund. Criminal tax preparation in the second degree is a class D felony.

§ 8. The tax law is amended by adding a new section 1810-a to read as follows:

§ 1810-a. Criminal tax preparation in the first degree. A person commits criminal tax preparation in the first degree when he or she files or causes to be filed fifty or more tax returns with the department, within a period of not more than three hundred sixty-five consecutive days, knowing that each contains materially false information or omits material information with the intent to evade or reduce any tax liability owed or to effect or inflate a refund. Criminal tax preparation in the first degree is a class C felony.

§ 9. This act shall take effect immediately and shall apply to offenses committed on or after such effective date.

PART L

Section 1. Section 352 of the economic development law is amended by adding a new subdivision 8-a to read as follows:

8-a. "Green project" means a project deemed by the commissioner to make products or develop technologies that are substantially aimed at reducing greenhouse gas emissions or supporting the use of clean energy in accordance with goals described in chapter one hundred six of the laws of two thousand nineteen, along with the state energy plan and future updates as described in section 6-104 of the energy law. "Green

project" shall include, but not be limited to, the manufacture or development of products or technologies or supply chain components primarily for renewable energy systems as defined in section sixty-six-p of the public service law, vehicles that use non-hydrocarbon fuels and produce zero or near zero emissions, heat pumps, energy efficiency, carbon capture and storage, clean energy storage and other products that significantly reduce greenhouse gas emissions by minimizing the utilization of depletable resources or by improving industrial efficiency. "Green project" shall not include a project primarily composed of (i) necessarily local activities such as retail, building construction, or the installation, deployment or adoption of a clean energy product or technology at an end user's site, or (ii) the production of products or development of technologies that would produce only marginal and incremental energy savings or environmental benefits ancillary to the core function of the product or technology.

§ 2. Subdivision 1 of section 353 of the economic development law, as amended by section 2 of part K of chapter 59 of the laws of 2017, is amended to read as follows:

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

(a) as a financial services data center or a financial services back office operation;

(b) in manufacturing;

(c) in software development and new media;

(d) in scientific research and development;

(e) in agriculture;

(f) in the creation or expansion of back office operations in the state;

(g) in a distribution center;

(h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria;

(i) as an entertainment company;

(j) in music production; ~~or~~

(k) as a life sciences company; or

(l) as a company operating in one of the industries listed in paragraphs (b) through (e) of this subdivision and engaging in a green project as defined in section three hundred fifty-two of this article.

§ 3. Subdivision 5 of section 354 of the economic development law, as amended by section 4 of part K of chapter 59 of the laws of 2017, is amended to read as follows:

5. A participant may claim tax benefits commencing in the first taxable year that the business enterprise receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later. A participant may claim such benefits for the next nine consecutive taxable years, provided that the participant demonstrates to the department that it continues to satisfy the eligibility criteria specified in section three hundred fifty-three of this article and subdivision two of this section in each of those taxable years, and provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand ~~thirty~~ fifty. If, in any given year, a participant who has satisfied the eligibility criteria specified in section three hundred fifty-three of this article realizes job creation less than the estimated amount, the credit shall

1 be reduced by the proportion of actual job creation to the estimated
2 amount, provided the proportion is at least seventy-five percent of the
3 jobs estimated.

4 § 4. Subdivisions 1, 2 and 3 of section 355 of the economic develop-
5 ment law, subdivisions 1 and 2 as amended by section 4 of part G of
6 chapter 61 of the laws of 2011, and subdivision 3 as amended by section
7 1 of part YY of chapter 59 of the laws of 2017, are amended to read as
8 follows:

9 1. Excelsior jobs tax credit component. A participant in the excelsior
10 jobs program shall be eligible to claim a credit for each net new job it
11 creates in New York state. [~~The~~] In a project that is not a green
12 project, the amount of such credit per job shall be equal to the product
13 of the gross wages paid and up to 6.85 percent. In a green project, the
14 amount of such credit per job shall be equal to the product of the gross
15 wages paid and up to 7.5 percent.

16 2. Excelsior investment tax credit component. A participant in the
17 excelsior jobs program shall be eligible to claim a credit on qualified
18 investments. [~~The~~] In a project that is not a green project, the credit
19 shall be equal to two percent of the cost or other basis for federal
20 income tax purposes of the qualified investment. In a green project,
21 the credit shall be equal to five percent of the cost or other basis for
22 federal income tax purposes of the qualified investment. A participant
23 may not claim both the excelsior investment tax credit component and the
24 investment tax credit set forth in subdivision [~~twelve~~] one of section
25 two hundred [~~ten~~] ten-B, subsection (a) of section six hundred six, the
26 former subsection (i) of section fourteen hundred fifty-six, or subdivi-
27 sion (q) of section fifteen hundred eleven of the tax law for the same
28 property in any taxable year, except that a participant may claim both
29 the excelsior investment tax credit component and the investment tax
30 credit for research and development property. In addition, a taxpayer
31 who or which is qualified to claim the excelsior investment tax credit
32 component and is also qualified to claim the brownfield tangible proper-
33 ty credit component under section twenty-one of the tax law may claim
34 either the excelsior investment tax credit component or such tangible
35 property credit component, but not both with regard to a particular
36 piece of property. A credit may not be claimed until a business enter-
37 prise has received a certificate of tax credit, provided that qualified
38 investments made on or after the issuance of the certificate of eligi-
39 bility but before the issuance of the certificate of tax credit to the
40 business enterprise, may be claimed in the first taxable year for which
41 the business enterprise is allowed to claim the credit. Expenses
42 incurred prior to the date the certificate of eligibility is issued are
43 not eligible to be included in the calculation of the credit.

44 3. Excelsior research and development tax credit component. A partic-
45 ipant in the excelsior jobs program shall be eligible to claim a credit
46 equal to fifty percent of the portion of the participant's federal
47 research and development tax credit that relates to the participant's
48 research and development expenditures in New York state during the taxa-
49 ble year; provided however, if not a green project, the excelsior
50 research and development tax credit shall not exceed six percent of the
51 qualified research and development expenditures attributable to activi-
52 ties conducted in New York state, or, if a green project, the excelsior
53 research and development tax credit shall not exceed eight percent of
54 the research and development expenditures attributable to activities
55 conducted in New York state. If the federal research and development
56 credit has expired, then the research and development expenditures

relating to the federal research and development credit shall be calculated as if the federal research and development credit structure and definition in effect in two thousand nine were still in effect. Notwithstanding any other provision of this chapter to the contrary, research and development expenditures in this state, including salary or wage expenses for jobs related to research and development activities in this state, may be used as the basis for the excelsior research and development tax credit component and the qualified emerging technology company facilities, operations and training credit under the tax law.

§ 5. Section 359 of the economic development law, as amended by section 5 of part K of chapter 59 of the laws of 2017, is amended to read as follows:

§ 359. Cap on tax credit. [~~The total amount of tax credits listed on certificates of tax credit issued by the commissioner for any taxable year may not exceed the limitations set forth in this section.~~] One-half of any amount of tax credits not awarded for a particular taxable year [~~in years two thousand eleven through two thousand twenty four~~] may be used by the commissioner to award tax credits in another taxable year.

Credit components in the aggregate shall not exceed:

With respect to taxable years beginning in:

\$ 50 million	2011
\$ 100 million	2012
\$ 150 million	2013
\$ 200 million	2014
\$ 250 million	2015
\$ 183 million	2016
\$ 183 million	2017
\$ 183 million	2018
\$ 183 million	2019
\$ 183 million	2020
\$ 183 million	2021
\$ 133 million	2022
\$ 83 million	2023
\$ 36 million	2024
<u>\$ 200 million</u>	<u>2025</u>
<u>\$ 200 million</u>	<u>2026</u>
<u>\$ 200 million</u>	<u>2027</u>
<u>\$ 200 million</u>	<u>2028</u>
<u>\$ 200 million</u>	<u>2029</u>
<u>\$ 200 million</u>	<u>2030</u>
<u>\$ 200 million</u>	<u>2031</u>
<u>\$ 200 million</u>	<u>2032</u>
<u>\$ 200 million</u>	<u>2033</u>
<u>\$ 200 million</u>	<u>2034</u>
<u>\$ 200 million</u>	<u>2035</u>
<u>\$ 200 million</u>	<u>2036</u>
<u>\$ 200 million</u>	<u>2037</u>
<u>\$ 200 million</u>	<u>2038</u>
<u>\$ 200 million</u>	<u>2039</u>

Twenty-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision four of section three hundred fifty-three of this article and seventy-five percent of tax

1 credits shall be allocated to businesses accepted into the program under
2 subdivision three of section three hundred fifty-three of this article.

3 Provided, however, if by September thirtieth of a calendar year, the
4 department has not allocated the full amount of credits available in
5 that year to either: (i) businesses accepted into the program under
6 subdivision four of section three hundred fifty-three of this article or
7 (ii) businesses accepted into the program under subdivision three of
8 section three hundred fifty-three of this article, the commissioner may
9 allocate any remaining tax credits to businesses referenced in this
10 paragraph as needed; provided, however, that under no circumstances may
11 the aggregate statutory cap for all program years be exceeded. One
12 hundred percent of the unawarded amounts remaining at the end of two
13 thousand [~~twenty-four~~] thirty-nine may be allocated in subsequent years,
14 notwithstanding the fifty percent limitation on any amounts of tax cred-
15 its not awarded in taxable years two thousand eleven through two thou-
16 sand [~~twenty-four~~] thirty-nine. Provided, however, no tax credits may
17 be allowed for taxable years beginning on or after January first, two
18 thousand [~~thirty~~] fifty.

19 § 6. Subdivision (b) of section 31 of the tax law, as amended by
20 section 6 of part K of chapter 59 of the laws of 2017, is amended to
21 read as follows:

22 (b) To be eligible for the excelsior jobs program credit, the taxpayer
23 shall have been issued a "certificate of tax credit" by the department
24 of economic development pursuant to subdivision four of section three
25 hundred fifty-four of the economic development law, which certificate
26 shall set forth the amount of each credit component that may be claimed
27 for the taxable year. A taxpayer may claim such credit for ten consec-
28 utive taxable years commencing in the first taxable year that the
29 taxpayer receives a certificate of tax credit or the first taxable year
30 listed on its preliminary schedule of benefits, whichever is later,
31 provided that no tax credits may be allowed for taxable years beginning
32 on or after January first, two thousand [~~thirty~~] fifty. The taxpayer
33 shall be allowed to claim only the amount listed on the certificate of
34 tax credit for that taxable year. Such certificate must be attached to
35 the taxpayer's return. No cost or expense paid or incurred by the
36 taxpayer shall be the basis for more than one component of this credit
37 or any other tax credit, except as provided in section three hundred
38 fifty-five of the economic development law.

39 § 7. This act shall take effect immediately.

40 PART M

41 Section 1. Paragraph 2 of subdivision (a) of section 24 of the tax
42 law, as amended by section 4 of part Q of chapter 57 of the laws of
43 2010, is amended to read as follows:

44 (2) The amount of the credit shall be the product (or pro rata share
45 of the product, in the case of a member of a partnership) of [~~thirty~~]
46 twenty-five percent and the qualified production costs paid or incurred
47 in the production of a qualified film, provided that: (i) the qualified
48 production costs (excluding post production costs) paid or incurred
49 which are attributable to the use of tangible property or the perform-
50 ance of services at a qualified film production facility in the
51 production of such qualified film equal or exceed seventy-five percent
52 of the production costs (excluding post production costs) paid or
53 incurred which are attributable to the use of tangible property or the
54 performance of services at any film production facility within and with-

1 out the state in the production of such qualified film, and (ii) except
2 with respect to a qualified independent film production company or
3 pilot, at least ten percent of the total principal photography shooting
4 days spent in the production of such qualified film must be spent at a
5 qualified film production facility. However, if the qualified production
6 costs (excluding post production costs) which are attributable to the
7 use of tangible property or the performance of services at a qualified
8 film production facility in the production of such qualified film is
9 less than three million dollars, then the portion of the qualified
10 production costs attributable to the use of tangible property or the
11 performance of services in the production of such qualified film outside
12 of a qualified film production facility shall be allowed only if the
13 shooting days spent in New York outside of a film production facility in
14 the production of such qualified film equal or exceed seventy-five
15 percent of the total shooting days spent within and without New York
16 outside of a film production facility in the production of such qualified
17 film. The credit shall be allowed for the taxable year in which the
18 production of such qualified film is completed. However, in the case of
19 a qualified film that receives funds from additional pool 2, no credit
20 shall be claimed before the later of (1) the taxable year the production
21 of the qualified film is complete, or (2) the taxable year immediately
22 following the allocation year for which the film has been allocated
23 credit by the governor's office for motion picture and television devel-
24 opment. If the amount of the credit is at least one million dollars but
25 less than five million dollars, the credit shall be claimed over a two
26 year period beginning in the first taxable year in which the credit may
27 be claimed and in the next succeeding taxable year, with one-half of the
28 amount of credit allowed being claimed in each year. If the amount of
29 the credit is at least five million dollars, the credit shall be claimed
30 over a three year period beginning in the first taxable year in which
31 the credit may be claimed and in the next two succeeding taxable years,
32 with one-third of the amount of the credit allowed being claimed in each
33 year.

34 § 2. Paragraph 2 of subdivision (a) of section 24 of the tax law, as
35 amended by section 4 of part Q of chapter 57 of the laws of 2010, is
36 amended to read as follows:

37 (2) The amount of the credit shall be the product (or pro rata share
38 of the product, in the case of a member of a partnership) of thirty
39 percent and the qualified production costs paid or incurred in the
40 production of a qualified film, provided that: (i) the qualified
41 production costs (excluding post production costs) paid or incurred
42 which are attributable to the use of tangible property or the perform-
43 ance of services at a qualified film production facility in the
44 production of such qualified film equal or exceed seventy-five percent
45 of the production costs (excluding post production costs) paid or
46 incurred which are attributable to the use of tangible property or the
47 performance of services at any film production facility within and with-
48 out the state in the production of such qualified film, and (ii) except
49 with respect to a qualified independent film production company or
50 pilot, at least ten percent of the total principal photography shooting
51 days spent in the production of such qualified film must be spent at a
52 qualified film production facility. However, if the qualified production
53 costs (excluding post production costs) which are attributable to the
54 use of tangible property or the performance of services at a qualified
55 film production facility in the production of such qualified film is
56 less than three million dollars, then the portion of the qualified

1 production costs attributable to the use of tangible property or the
2 performance of services in the production of such qualified film outside
3 of a qualified film production facility shall be allowed only if the
4 shooting days spent in New York outside of a film production facility in
5 the production of such qualified film equal or exceed seventy-five
6 percent of the total shooting days spent within and without New York
7 outside of a film production facility in the production of such quali-
8 fied film. The credit shall be allowed for the taxable year in which the
9 production of such qualified film is completed. However, in the case of
10 a qualified film that receives funds from additional pool 2, no credit
11 shall be claimed before the later of (1) the taxable year the production
12 of the qualified film is complete, or (2) the first taxable year begin-
13 ning immediately [~~following~~] after the allocation year for which the
14 film has been allocated credit by the governor's office for motion
15 picture and television development. If the amount of the credit is at
16 least one million dollars but less than five million dollars, the credit
17 shall be claimed over a two year period beginning in the first taxable
18 year in which the credit may be claimed and in the next succeeding taxa-
19 ble year, with one-half of the amount of credit allowed being claimed in
20 each year. If the amount of the credit is at least five million dollars,
21 the credit shall be claimed over a three year period beginning in the
22 first taxable year in which the credit may be claimed and in the next
23 two succeeding taxable years, with one-third of the amount of the credit
24 allowed being claimed in each year.

25 § 3. Paragraph 3 of subdivision (b) of section 24 of the tax law, as
26 amended by section 1 of part B of chapter 59 of the laws of 2013, is
27 amended to read as follows:

28 (3) "Qualified film" means a feature-length film, television film,
29 relocated television production, television pilot [~~and/or each episode~~
30 ~~of a~~] or television series, regardless of the medium by means of which
31 the film, pilot or [~~episode~~] series is created or conveyed. For the
32 purposes of the credit provided by this section only, a "qualified film"
33 with the exception of a television pilot, whose majority of principal
34 photography shooting days in the production of the qualified film are
35 shot in Westchester, Rockland, Nassau, or Suffolk county or any of the
36 five New York City boroughs shall have a minimum budget of one million
37 dollars. A "qualified film", with the exception of a television pilot,
38 whose majority of principal photography shooting days in the production
39 of the qualified film are shot in any other county of the state than
40 those listed in the preceding sentence shall have a minimum budget of
41 two hundred fifty thousand dollars. "Qualified film" shall not include:
42 (i) a documentary film, news or current affairs program, interview or
43 talk program, "how-to" (i.e., instructional) film or program, film or
44 program consisting primarily of stock footage, sporting event or sport-
45 ing program, game show, award ceremony, film or program intended prima-
46 rily for industrial, corporate or institutional end-users, fundraising
47 film or program, daytime drama (i.e., daytime "soap opera"), commer-
48 cials, music videos or "reality" program, or (ii) a production for which
49 records are required under section 2257 of title 18, United States code,
50 to be maintained with respect to any performer in such production
51 (reporting of books, films, etc. with respect to sexually explicit
52 conduct).

53 § 4. Paragraph 3 of subdivision (b) of section 24 of the tax law, as
54 amended by section 1 of part B of chapter 59 of the laws of 2013, is
55 amended to read as follows:

(3) "Qualified film" means a feature-length film, television film, relocated television production, television pilot and/or each episode of a television series, regardless of the medium by means of which the film, pilot or episode is created or conveyed. "Qualified film" shall not include: (i) a documentary film, news or current affairs program, interview or talk program, "how-to" (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, daytime drama (i.e., daytime "soap opera"), commercials, music videos or "reality" program~~[re]~~; (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit conduct); or (iii) other than a relocated television production, a television series commonly known as variety entertainment, variety sketch and variety talk, i.e., a program with components of improvisational or scripted content (monologues, sketches, interviews), either exclusively or in combination with other entertainment elements such as musical performances, dancing, cooking, crafts, pranks, stunts, and games and which may be further defined in regulations of the commissioner of economic development. However, a qualified film shall include a television series as described in subparagraph (iii) of this paragraph only if an application for such series has been deemed conditionally eligible for the tax credit under this section prior to April first, two thousand twenty, such series remains in continuous production for each season, and an annual application for each season of such series is continually submitted for such series after April first, two thousand twenty.

§ 5. Paragraph 2 of subdivision (a) of section 31 of the tax law, as amended by chapter 268 of the laws of 2012, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of ~~[thirty]~~ twenty-five percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located within the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law or ~~[thirty-five]~~ thirty percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located elsewhere in the state.

§ 5-a. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by section 1 of part SSS of chapter 59 of the laws of 2019, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand ~~[twenty-four]~~ twenty-five, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit,

1 the services must be performed in one or more of the following counties:
2 Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung,
3 Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex,
4 Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis,
5 Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga,
6 Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga,
7 Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sulli-
8 van, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or
9 Yates. The aggregate amount of tax credits allowed pursuant to the
10 authority of this paragraph shall be five million dollars each year
11 during the period two thousand fifteen through two thousand [~~twenty-~~
12 ~~four~~] twenty-five of the annual allocation made available to the program
13 pursuant to paragraph four of subdivision (e) of this section. Such
14 aggregate amount of credits shall be allocated by the governor's office
15 for motion picture and television development among taxpayers in order
16 of priority based upon the date of filing an application for allocation
17 of film production credit with such office. If the total amount of
18 allocated credits applied for under this paragraph in any year exceeds
19 the aggregate amount of tax credits allowed for such year under this
20 paragraph, such excess shall be treated as having been applied for on
21 the first day of the next year. If the total amount of allocated tax
22 credits applied for under this paragraph at the conclusion of any year
23 is less than five million dollars, the remainder shall be treated as
24 part of the annual allocation made available to the program pursuant to
25 paragraph four of subdivision (e) of this section. However, in no event
26 may the total of the credits allocated under this paragraph and the
27 credits allocated under paragraph five of subdivision (a) of section
28 thirty-one of this article exceed five million dollars in any year
29 during the period two thousand fifteen through two thousand [~~twenty-~~
30 ~~four~~] twenty-five.

31 § 5-b. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
32 amended by chapter 683 of the laws of 2019, is amended to read as
33 follows:

34 (4) Additional pool 2 - The aggregate amount of tax credits allowed in
35 subdivision (a) of this section shall be increased by an additional four
36 hundred twenty million dollars in each year starting in two thousand ten
37 through two thousand [~~twenty-four~~] twenty-five provided however, seven
38 million dollars of the annual allocation shall be available for the
39 empire state film post production credit pursuant to section thirty-one
40 of this article in two thousand thirteen and two thousand fourteen,
41 twenty-five million dollars of the annual allocation shall be available
42 for the empire state film post production credit pursuant to section
43 thirty-one of this article in each year starting in two thousand fifteen
44 through two thousand [~~twenty-four~~] twenty-five and five million dollars
45 of the annual allocation shall be made available for the television
46 writers' and directors' fees and salaries credit pursuant to section
47 twenty-four-b of this article in each year starting in two thousand
48 twenty through two thousand [~~twenty-four~~] twenty-five. This amount shall
49 be allocated by the governor's office for motion picture and television
50 development among taxpayers in accordance with subdivision (a) of this
51 section. If the commissioner of economic development determines that the
52 aggregate amount of tax credits available from additional pool 2 for the
53 empire state film production tax credit have been previously allocated,
54 and determines that the pending applications from eligible applicants
55 for the empire state film post production tax credit pursuant to section
56 thirty-one of this article is insufficient to utilize the balance of

1 unallocated empire state film post production tax credits from such
2 pool, the remainder, after such pending applications are considered,
3 shall be made available for allocation in the empire state film tax
4 credit pursuant to this section, subdivision twenty of section two
5 hundred ten-B and subsection (gg) of section six hundred six of this
6 chapter. Also, if the commissioner of economic development determines
7 that the aggregate amount of tax credits available from additional pool
8 2 for the empire state film post production tax credit have been previ-
9 ously allocated, and determines that the pending applications from
10 eligible applicants for the empire state film production tax credit
11 pursuant to this section is insufficient to utilize the balance of unal-
12 located film production tax credits from such pool, then all or part of
13 the remainder, after such pending applications are considered, shall be
14 made available for allocation for the empire state film post production
15 credit pursuant to this section, subdivision thirty-two of section two
16 hundred ten-B and subsection (qq) of section six hundred six of this
17 chapter. The governor's office for motion picture and television devel-
18 opment must notify taxpayers of their allocation year and include the
19 allocation year on the certificate of tax credit. Taxpayers eligible to
20 claim a credit must report the allocation year directly on their empire
21 state film production credit tax form for each year a credit is claimed
22 and include a copy of the certificate with their tax return. In the case
23 of a qualified film that receives funds from additional pool 2, no
24 empire state film production credit shall be claimed before the later of
25 the taxable year the production of the qualified film is complete, or
26 the taxable year immediately following the allocation year for which the
27 film has been allocated credit by the governor's office for motion
28 picture and television development.

29 § 5-c. Paragraph 6 of subdivision (a) of section 31 of the tax law, as
30 amended by section 3 of part SSS of chapter 59 of the laws of 2019, is
31 amended to read as follows:

32 (6) For the period two thousand fifteen through two thousand [~~twenty-~~
33 ~~four~~] twenty-five, in addition to the amount of credit established in
34 paragraph two of this subdivision, a taxpayer shall be allowed a credit
35 equal to the product (or pro rata share of the product, in the case of a
36 member of a partnership) of ten percent and the amount of wages or sala-
37 ries paid to individuals directly employed (excluding those employed as
38 writers, directors, music directors, producers and performers, including
39 background actors with no scripted lines) for services performed by
40 those individuals in one of the counties specified in this paragraph in
41 connection with the post production work on a qualified film with a
42 minimum budget of five hundred thousand dollars at a qualified post
43 production facility in one of the counties listed in this paragraph. For
44 purposes of this additional credit, the services must be performed in
45 one or more of the following counties: Albany, Allegany, Broome, Catta-
46 raugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Dela-
47 ware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer,
48 Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara,
49 Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Schenectady, Scho-
50 harie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins, Wayne,
51 Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant
52 to the authority of this paragraph shall be five million dollars each
53 year during the period two thousand fifteen through two thousand [~~twen-~~
54 ~~ty-four~~] twenty-five of the annual allocation made available to the
55 empire state film post production credit pursuant to paragraph four of
56 subdivision (e) of section twenty-four of this article. Such aggregate

1 amount of credits shall be allocated by the governor's office for motion
2 picture and television development among taxpayers in order of priority
3 based upon the date of filing an application for allocation of post
4 production credit with such office. If the total amount of allocated
5 credits applied for under this paragraph in any year exceeds the aggregate
6 amount of tax credits allowed for such year under this paragraph,
7 such excess shall be treated as having been applied for on the first day
8 of the next year. If the total amount of allocated tax credits applied
9 for under this paragraph at the conclusion of any year is less than five
10 million dollars, the remainder shall be treated as part of the annual
11 allocation for two thousand seventeen made available to the empire state
12 film post production credit pursuant to paragraph four of subdivision
13 (e) of section twenty-four of this article. However, in no event may the
14 total of the credits allocated under this paragraph and the credits
15 allocated under paragraph five of subdivision (a) of section twenty-four
16 of this article exceed five million dollars in any year during the period
17 two thousand fifteen through two thousand ~~twenty-four~~ twenty-five.

18 § 6. This act shall take effect immediately; provided, however, that
19 the amendments made by sections one, three and five of this act shall
20 apply to applications that are filed with the governor's office for
21 motion picture and television development on or after April 1, 2020.

22 PART N

23 Section 1. Subdivision 13 of section 1901 of the real property tax law
24 is amended by adding a new paragraph (c) to read as follows:

25 (c) Notwithstanding any provision of law to the contrary, the governing
26 body of a municipal corporation that has adopted the provisions of
27 paragraph (c) of subdivision one of section five hundred eighty-one of
28 this chapter relating to converted condominium units is authorized to
29 adopt a local law or, in the case of a school district, a resolution,
30 providing that such converted condominium units shall be classified in
31 the homestead class for purposes of taxes levied by such municipal
32 corporation.

33 § 2. This act shall take effect immediately.

34 PART O

35 Section 1. The tax law is amended by adding a new section 171-w to
36 read as follows:

37 § 171-w. State support for the local enforcement of past-due property
38 taxes. 1. Legislative findings. The legislature finds that local govern-
39 ments have limited means to enforce the collection of past-due property
40 taxes. The legislature further finds that it is appropriate for the
41 state to support the local enforcement of past-due property taxes by
42 authorizing the commissioner to administer a program to disallow STAR
43 credits and exemptions to delinquent property owners based on informa-
44 tion reported to him or her by municipal officials.

45 2. Definitions. For the purposes of this section:

46 (a) "Delinquent property owner" means a STAR recipient whose primary
47 residence is subject to past-due property taxes.

48 (b) "Past-due property taxes" means property taxes that have been
49 levied upon a property owner's primary residence that remain unpaid one
50 year after the last date on which they could have been paid without
51 interest, or where such taxes are payable in installments, those taxes

1 that remain unpaid one year after the last date on which the final
2 installment could have been paid without interest.

3 (c) "STAR credit" means the personal income tax credit authorized by
4 subsection (eee) of section six hundred six of this chapter.

5 (d) "STAR exemption" means the exemption from real property taxation
6 authorized by section four hundred twenty-five of the real property tax
7 law.

8 (e) "STAR recipient" means a property owner who is registered to
9 receive the STAR credit in relation to his or her primary residence, or
10 whose primary residence is receiving the STAR exemption.

11 3. STAR tax payment requirement; generally. Notwithstanding any
12 provision of law to the contrary, a property owner whose primary resi-
13 dence is subject to past-due property taxes shall not be allowed to
14 receive a STAR credit or STAR exemption unless the past-due property
15 taxes are paid in full on or before a date specified by the commission-
16 er.

17 4. Commissioner's authority. The commissioner is hereby authorized to
18 develop a program to support the local enforcement of past-due property
19 taxes by disallowing STAR credits and STAR exemptions to delinquent
20 property owners. The commissioner shall establish procedures for the
21 administration of this program, which shall include the following
22 provisions:

23 (a) The procedures by which municipal officials shall report past-due
24 property taxes and property tax payments to the department.

25 (b) The procedures by which the department shall notify delinquent
26 property owners of the impending disallowance of their STAR credits or
27 exemptions due to past-due property taxes.

28 (c) The date by which delinquent property owners must pay their past-
29 due property taxes in full in order to avoid disallowance of their STAR
30 credits or exemptions.

31 (d) The procedures by which the commissioner shall disallow STAR cred-
32 its and notify assessors of the disallowance of STAR exemptions if past-
33 due property taxes are not paid in full by the specified date.

34 (e) Such other procedures as the commissioner shall deem necessary to
35 carry out the provisions of this section.

36 5. Municipal reports. The commissioner's procedures regarding municip-
37 al reporting shall be subject to the following provisions:

38 (a) The commissioner may request and shall be entitled to receive from
39 any municipal corporation of the state, or any agency or official there-
40 of, such data as the commissioner deems necessary to effectuate the
41 purposes of this section. Such information shall be submitted to the
42 department at such time and in such manner as the commissioner may
43 direct.

44 (b) In lieu of requiring municipal officials to submit their reports
45 directly to the department, the commissioner may, in his or her
46 discretion, require that such reports be submitted to the county direc-
47 tor of real property tax services, who shall integrate the reports into
48 a single file and submit it to the department at such time and in such
49 manner as the commissioner may direct. Provided, that where the commis-
50 sioner institutes such a procedure, he or she may exclude cities with
51 one hundred twenty-five thousand inhabitants or more, so that informa-
52 tion about past-due property taxes and property tax payments in such a
53 city shall be reported directly to the department by a designated city
54 official at such time and in such manner as the commissioner may direct.

1 (c) Reports and other records prepared pursuant to this section shall
2 not be subject to the provisions of article six of the public officers
3 law.

4 6. Notification of delinquent property owners. The commissioner's
5 procedures regarding the notification of delinquent property owners
6 shall be subject to the following provisions:

7 (a) The department shall notify a delinquent property owner by regular
8 mail at least thirty days prior to the date by which his or her past-due
9 property taxes must be paid in full in order to avoid disallowance of
10 his or her STAR credit or exemption.

11 (b) Such notice shall include a statement that the property owner's
12 STAR credit or exemption will be disallowed unless his or her past-due
13 property taxes are paid in full by the date specified in the notice.

14 (c) To the extent practicable, such notice shall provide contact
15 information for the local official or officials to whom the past-due
16 property taxes may be paid.

17 (d) Such notice shall further state that the property owner's right to
18 protest the disallowance of the STAR credit or exemption is limited to
19 raising issues that constitute a "mistake of fact" as defined in subdi-
20 vision nine of this section.

21 (e) Such notice may include such other information as the commissioner
22 may deem necessary.

23 7. Timely payment of past-due property taxes. If a delinquent property
24 owner pays his or her past-due property taxes in full on or before the
25 date specified in such notice, the official receiving such payment shall
26 so notify the department at such time and in such manner as prescribed
27 by the commissioner. The property owner shall then be permitted to
28 receive the STAR credit or exemption that would have been disallowed if
29 timely payment had not been made. However, if the department does not
30 learn of the payment until after it has already directed an assessor to
31 deny a STAR exemption to a delinquent property owner, then in lieu of
32 directing the exemption to be restored, the department may remit to the
33 property owner payment in an amount that will reimburse the property
34 owner for the increase in his or her school tax bill that is directly
35 attributable to the lost STAR exemption.

36 8. Failure to make timely payment. (a) If the past-due taxes are not
37 paid on or before the date specified in the notice that had been sent to
38 the delinquent property owner, his or her STAR credit or STAR exemption
39 shall be disallowed in accordance with the procedures established by the
40 commissioner.

41 (b) The delinquent property owner shall be permanently ineligible for
42 any STAR credit or exemption that has been disallowed, even if the past-
43 due property taxes are subsequently paid in full. The property owner
44 shall not be eligible to participate in the STAR program again as long
45 as the property is subject to past-due property taxes.

46 (c) Upon payment of the past-due property taxes in full, the official
47 receiving such payment shall notify the department at such time and in
48 such manner as may be prescribed by the commissioner. The commissioner
49 shall then proceed as follows:

50 (i) If the property owner had previously been receiving the STAR cred-
51 it, the commissioner shall allow the property owner to resume his or her
52 participation in the STAR credit program on a prospective basis, if
53 otherwise eligible, effective with the first taxable year commencing
54 after such payment.

55 (ii) If the property owner had previously been receiving the STAR
56 exemption, the commissioner shall allow the property owner to partic-

1 ipate in the STAR credit program on a prospective basis, if otherwise
2 eligible, effective with the first taxable year commencing after such
3 payment. The property owner shall not be allowed back into the STAR
4 exemption program.

5 9. Mistake of fact. Notwithstanding any other provision of law, a
6 disallowance of a STAR credit or STAR exemption pursuant to this section
7 may only be challenged before the department on the grounds of a mistake
8 of fact as defined in this subdivision. The taxpayer will have no right
9 to commence a court action, administrative proceeding or any other form
10 of legal recourse against an assessor, county director of real property
11 tax services or other local official regarding such disallowance. For
12 the purposes of this subdivision, "mistake of fact" is limited to claims
13 that: (i) the individual notified is not the taxpayer at issue; or (ii)
14 the past-due property taxes were satisfied before the date specified in
15 the notice described in subdivision six of this section. However, noth-
16 ing in this subdivision is intended to limit a taxpayer from seeking
17 relief from joint and several liability pursuant to section six hundred
18 fifty-four of this chapter to the extent that he or she is eligible
19 pursuant to that subdivision or establishing to the department that the
20 enforcement of the underlying property taxes has been stayed by the
21 filing of a petition pursuant to the Bankruptcy Code of 1978 (Title
22 Eleven of the United States Code).

23 10. Assessors. (a) Notwithstanding any provision of law to the contra-
24 ry, the department may disclose to assessors such information as the
25 commissioner deems necessary to ensure that the STAR exemptions of
26 delinquent property owners are disallowed as required by this section.

27 (b) Notwithstanding any provision of law to the contrary, an assessor
28 shall be authorized and directed to deny a STAR exemption to a delin-
29 quent property owner upon being directed by the department to do so. If
30 an assessor should receive such a directive after the applicable assess-
31 ment roll has been filed, the assessor or other official having custody
32 and control of that roll shall be authorized and directed to remove such
33 exemption from such roll prior to the levy of school taxes, without
34 regard to the provisions of title three of article five of the real
35 property tax law or any comparable laws governing the correction of
36 administrative errors on assessment rolls and tax rolls.

37 11. Recovery of STAR benefits in certain cases. The commissioner may
38 establish procedures to be followed in cases where a STAR credit or
39 exemption was inadvertently or erroneously provided to a delinquent
40 property owner who was sent the notice required by subdivision six of
41 this section, and whose past-due property taxes were not paid in full by
42 the date specified in the notice. Such procedures shall include, but not
43 be limited to, (a) applying the improperly received STAR credit or
44 exemption as an offset against future STAR credits or against other
45 personal income tax credits or personal income tax refunds to which the
46 delinquent property owner would otherwise be entitled, and (b) pursuing
47 any of the other remedies that are available to enforce a personal
48 income tax debt under article twenty-two of this chapter.

49 § 2. This act shall take effect immediately.

50 PART P

51 Section 1. Section 1530 of the real property tax law is amended by
52 adding a new subdivision 1-a to read as follows:

53 1-a. In the event that a director of real property tax services,
54 appointed pursuant to the provisions of this section, is unable to

1 perform the duties of the office of director of real property tax
2 services or the office becomes vacant, the appointing authority may by
3 resolution designate or appoint an acting director of real property tax
4 services. Where an acting director of real property tax services is
5 designated or appointed pursuant to this section, the appointing author-
6 ity shall notify the commissioner within fifteen days of making such
7 designation or appointment. The acting director of real property tax
8 services shall function as director of real property tax services until
9 such time as the director of real property tax services is able to
10 resume the position or until a replacement is appointed. In the event an
11 acting director of real property tax services functions as director of
12 real property tax services for more than six months, then such acting
13 director of real property tax services shall be required to meet the
14 minimum qualification standards required by this title for persons
15 appointed to the office of director of real property tax services.

16 § 2. This act shall take effect immediately.

17 PART Q

18 Section 1. Paragraph i of subdivision 1-e of section 333 of the real
19 property law, as amended by section 5 of part X of chapter 56 of the
20 laws of 2010 and as further amended by subdivision (d) of section 1 of
21 part W of chapter 56 of the laws of 2010, is amended to read as follows:

22 i. A recording officer shall not record or accept for record any
23 conveyance of real property affecting land in New York state unless
24 accompanied by either (A) a transfer report form prescribed by the
25 commissioner of taxation and finance ~~[or in lieu thereof, confirmation~~
26 ~~from the commissioner that the required data has been reported to it~~
27 ~~pursuant to paragraph vii of this subdivision,~~ and the fee prescribed
28 pursuant to subdivision three of this section, or (B) a receipt issued
29 by the commissioner of taxation and finance pursuant to section fourteen
30 hundred twenty-three of the tax law that confirms the electronic
31 submission of a consolidated real property transfer form and payment of
32 the associated taxes and fees.

33 § 2. Paragraph v of subdivision 1-e of section 333 of the real proper-
34 ty law, as amended by section 5 of part X of chapter 56 of the laws of
35 2010 and as further amended by section 1 of part W of chapter 56 of the
36 laws of 2010, is amended to read as follows:

37 v. (1) The provisions of this subdivision shall not operate to invali-
38 date any conveyance of real property where one or more of the items
39 designated as subparagraphs one through eight of paragraph ii of this
40 subdivision, have not been reported or which has been erroneously
41 reported, nor affect the record contrary to the provisions of this
42 subdivision, nor impair any title founded on such conveyance or record.
43 [~~Such~~]

44 (2) Subject to the provisions of section fourteen hundred twenty-three
45 of the tax law, such form shall contain an affirmation as to the accura-
46 cy of the contents made both by the transferor or transferors and by the
47 transferee or transferees. Provided, however, that if the conveyance of
48 real property occurs as a result of a taking by eminent domain, tax
49 foreclosure, or other involuntary proceeding such affirmation may be
50 made only by either the condemnor, tax district, or other party to whom
51 the property has been conveyed, or by that party's attorney. The affir-
52 mations required by this paragraph shall be made in the form and manner
53 prescribed by the commissioner, provided that notwithstanding any

1 provision of law to the contrary, affirmants may be allowed, but shall
2 not be required, to sign such affirmations electronically.

3 § 3. Paragraphs vii and viii of subdivision 1-e of section 333 of the
4 real property law are REPEALED.

5 § 4. Subdivision 3 of section 333 of the real property law, as amended
6 by section 2 of part JJ of chapter 56 of the laws of 2009 and as further
7 amended by section 1 of part W of chapter 56 of the laws of 2010, is
8 amended to read as follows:

9 3. The recording officer of every county and the city of New York
10 shall impose a fee of two hundred fifty dollars, or in the case of a
11 transfer involving qualifying residential or farm property as defined by
12 paragraph iv of subdivision one-e of this section, a fee of one hundred
13 twenty-five dollars, for every real property transfer reporting form
14 submitted for recording as required under subdivision one-e of this
15 section. In the city of New York, the recording officer shall impose a
16 fee of one hundred dollars for each real property transfer tax form
17 filed in accordance with chapter twenty-one of title eleven of the
18 administrative code of the city of New York, except where a real proper-
19 ty transfer reporting form is also submitted for recording for the
20 transfer as required under subdivision one-e of this section. The
21 recording officer shall deduct nine dollars from such fee and remit the
22 remainder of the revenue collected to the commissioner of taxation and
23 finance every month for deposit into the general fund. The amount duly
24 deducted by the recording officer shall be retained by the county or by
25 the city of New York. Provided, however, that the recording officer
26 shall not impose such a fee where the conveyance is accompanied by a
27 receipt issued by the commissioner of taxation and finance pursuant to
28 section fourteen hundred twenty-three of the tax law that confirms the
29 electronic submission of a consolidated real property transfer form and
30 payment of the associated taxes and fees.

31 § 5. Subdivision (c) of section 1407 of the tax law, as amended by
32 chapter 61 of the laws of 1989, is amended to read as follows:

33 (c) Every recording officer designated to act as such agent shall
34 retain, from the real estate transfer tax which he or she collects, the
35 sum of one dollar for each of the first five thousand conveyances
36 accepted for recording and for which he or she has issued a documentary
37 stamp or metering machine stamp or upon which instrument effecting the
38 conveyance he or she has noted payment of the tax or that no tax is due,
39 pursuant to any other method for payment of the tax provided for in the
40 regulations of the commissioner of taxation and finance, during each
41 annual period commencing on the first day of August and ending on the
42 next succeeding thirty-first day of July and seventy-five cents for each
43 conveyance in excess of five thousand accepted for recording and for
44 which he or she has issued such a stamp or upon which instrument effect-
45 ing the conveyance he or she has noted payment of the tax or that no tax
46 is due, pursuant to such other method, during such annual period. Such
47 fee shall be payable even though the stamp issued or such notation shows
48 that no tax is due. Such a fee paid to the register of the city of New
49 York shall belong to the city of New York and such a fee paid to a
50 recording officer of a county outside such city shall belong to such
51 officer's county. With respect to any other agents designated to act
52 pursuant to subdivision (a) of this section, the commissioner of taxa-
53 tion and finance shall have the power to provide, at his or her
54 discretion, for payment of a fee to such agent, in such manner and
55 amount and subject to such limitations as he or she may determine, but
56 any such fee for any annual period shall not be greater than the sum of

one dollar for each of the first five thousand conveyances for which such agent has issued a documentary stamp or metering machine stamp or upon which instrument effecting the conveyance he or she has noted payment of the tax or that no tax is due, pursuant to any other method for payment of the tax provided for in the regulations of the commissioner of taxation and finance, during such annual period and seventy-five cents for each conveyance in excess of five thousand for which such agent has issued such a stamp or upon which instrument effecting the conveyance such agent has noted payment of the tax or that no tax is due, pursuant to such other method, during such annual period. Provided, however, that where the recording officer is provided with a receipt issued by the commissioner pursuant to section fourteen hundred twenty-three of this article that confirms the electronic submission of a consolidated real property transfer form and payment of the associated taxes and fees, the recording officer shall neither collect such tax nor impose such fee.

§ 6. Subdivision (b) of section 1409 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(b) [The] Subject to the provisions of section fourteen hundred twenty-three of article, the return shall be signed by both the grantor and the grantee. Where a conveyance has more than one grantor or more than one grantee, the return shall be signed by all of such grantors and grantees. Where any or all of the grantors or any or all of the grantees have failed to sign a return, it shall be accepted as a return if signed by any one of the grantors or by any one of the grantees. Provided, however, those not signing the return shall not be relieved of any liability for the tax imposed by this article and the period of limitations for assessment of tax or of additional tax shall not apply to any such party.

§ 7. Subdivision (b) of section 1410 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(b) A recording officer shall not record an instrument effecting a conveyance unless either (i) the return required by section fourteen hundred nine of this article has been filed and the real estate transfer tax due, if any, shall have been paid as provided in this section, or (ii) the instrument is accompanied by a receipt issued by the commissioner pursuant to section fourteen hundred twenty-three of this article that confirms the electronic submission of a consolidated real property transfer form and payment of the associated taxes and fees.

§ 8. The tax law is amended by adding a new section 1423 to read as follows:

§ 1423. Modernization of real property transfer reporting. (a) Notwithstanding any provision of law to the contrary, the commissioner is hereby authorized to implement a system for the electronic collection of data relating to transfers of real property. In connection therewith, the commissioner may combine the two forms referred to in paragraph (i) of this subdivision into a consolidated real property transfer form to be filed with him or her electronically; provided:

(i) The two forms that may be so combined are the real estate transfer tax return required by section fourteen hundred nine of this article, and the real property transfer report required by subdivision one-e of section three hundred thirty-three of the real property law. However, the commissioner shall continue to maintain both such return and such report as separate forms, so that a party who prefers not to file a consolidated real property transfer form with the commissioner electronically shall have the option of filing both such return and such report

1 with the recording officer, as otherwise provided by law. Under no
2 circumstances shall a consolidated real property transfer form be filed
3 with, or accepted by, the recording officer.

4 (ii) Notwithstanding the provisions of section fourteen hundred eigh-
5 teen of this article, any information appearing on a consolidated real
6 property transfer form that is required to be included on the real prop-
7 erty transfer report required by subdivision one-e of section three
8 hundred thirty-three of the real property law shall be subject to public
9 disclosure.

10 (iii) When a consolidated real property transfer form is electron-
11 ically submitted to the department by either the grantor or grantee, the
12 act of submitting such form shall be deemed to be the signing of the
13 return as required by paragraph (v) of subdivision one-e of the real
14 property law or subdivision (b) of section fourteen hundred nine of this
15 article, and the requirement that all the grantors and grantees shall
16 sign the return shall not apply. However, the fact that a grantor or
17 grantee has not electronically submitted the form shall not relieve that
18 grantor or grantee of any liability for the tax imposed by this article.

19 (b) When a consolidated real property transfer form is filed with the
20 commissioner electronically pursuant to this section, the real estate
21 transfer tax imposed under this article, and the fee that would other-
22 wise be retained by the recording officer pursuant to subdivision three
23 of section three hundred thirty-three of the real property law, shall be
24 paid to the commissioner therewith. The commissioner shall retain on
25 behalf of the recording officer the portion of such tax that would
26 otherwise have been retained by the recording officer pursuant to subdi-
27 vision (c) of section fourteen hundred seven of this article, and the
28 portion of such fee that would otherwise have been retained by the
29 recording officer pursuant to subdivision three of section three hundred
30 thirty-three of the real property law. The moneys so retained by the
31 commissioner on behalf of the recording officer, hereinafter referred to
32 as the recording officer's fees, shall be deposited daily with such
33 responsible banks, banking houses, or trust companies as may be desig-
34 nated by the state comptroller. Of the recording officer's fees so
35 deposited, the comptroller shall retain in the comptroller's hands such
36 amount as the commissioner may determine to be necessary for refunds or
37 reimbursements of such fees collected or received pursuant to this
38 section, out of which the comptroller shall pay any refunds or
39 reimbursements of such fees to which persons shall be entitled under the
40 provisions of this section. The comptroller, after reserving such refund
41 and reimbursement fund shall, on or before the twelfth day of each
42 month, pay to the appropriate recording officers an amount equal to the
43 recording officer's fees reserved on their behalf. Provided, however,
44 that the commissioner is authorized to request that the comptroller
45 refrain from making such a payment of such fees to a recording officer
46 until the commissioner has certified to the comptroller that the record-
47 ing officer has supplied the commissioner with the liber and page
48 numbers of the recorded instruments that gave rise to such fees.

49 (c) The system for the electronic submission of consolidated real
50 property transfer forms shall be designed so that upon the successful
51 electronic filing of such a form and the payment of the associated taxes
52 and fees, the party submitting the same shall be provided with an elec-
53 tronic receipt in a form prescribed by the commissioner that confirms
54 such filing and payment. Such party may file a printed copy of such
55 receipt with the recording officer when offering the associated instru-
56 ment for recording, in lieu of submitting to the recording officer the

1 return, report, tax and fee that would otherwise have been required
2 under this article and subdivisions one-e and three of section three
3 hundred thirty-three of the real property law. The recording officer
4 shall retain such receipt for a minimum of three years, unless otherwise
5 directed by the commissioner, and shall provide a copy thereof to the
6 commissioner for inspection upon his or her request.

7 (d) Upon recording the instrument to which the consolidated real prop-
8 erty transfer form pertains, the recording officer shall provide the
9 commissioner with the liber and page thereof at such time and in such
10 manner as the commissioner shall prescribe.

11 (e) The provisions of this section shall not be applicable within a
12 city or county that has implemented its own electronic system for the
13 recording of deeds, the filing of the real estate transfer tax returns
14 and the real property transfer reports prescribed by the commissioner,
15 and the payment of the associated taxes and fees, unless such city or
16 county should agree to allow the system implemented by the commissioner
17 pursuant to this section to be used therein.

18 § 9. This act shall take effect immediately.

19 PART R

20 Section 1. Section 19 of the public lands law, as amended by chapter
21 449 of the laws of 2016, is amended to read as follows:

22 § 19. Taxes and assessments for local improvements on state lands. A
23 person, body or board authorized to assess lands for local improvements
24 or purposes, shall submit to the comptroller of the state an invoice of
25 assessment on state lands, showing the purpose for which the assessment
26 is made, the state lands assessed and the amounts for which they are
27 assessed, and referring to the law authorizing the assessment. No fee,
28 interest, penalty or expense shall be added to or accrue on any assess-
29 ment against state lands, nor shall such lands be sold therefor; but
30 such assessments shall, if confirmed and uncontested, be paid and
31 discharged out of any moneys appropriated therefor. All sales of state
32 lands for unpaid taxes or assessments for local improvements or purposes
33 are void. All taxes and assessments legally made on state lands, and all
34 legal rents or charges thereon, shall be audited by the comptroller and
35 paid out of the treasury. On or before January fifteenth the comp-
36 troller, in consultation with the [~~board of real property tax services~~]
37 department of taxation and finance and other agencies as may be appro-
38 priate, shall submit to the governor and the legislature an annual
39 accounting of taxes and assessments paid pursuant to this section during
40 the preceding and current fiscal years. Such accounting shall include,
41 but not be limited to the number, type and amount of such payments, as
42 well as an estimate of payments to be made during the remainder of the
43 current fiscal year and during the following fiscal year. If any
44 provision of this section conflict with any provision of any other
45 general, special or local law, this section shall prevail; and no other
46 general, special or local law shall be deemed to repeal, alter or
47 abridge any provision of this section, unless this section or this arti-
48 cle or this chapter be expressly and specifically referred to therein.
49 This section shall extend, in its operation and effect, so as to include
50 all actions and proceedings, whether judicial or administrative, hereto-
51 fore commenced under any general, special or local law and now pending.

52 § 2. Subdivision 3 of section 19-b of the public lands law, as amended
53 by chapter 385 of the laws of 1994, is amended to read as follows:

3. Such state aid shall be payable upon application to the state comptroller by the chief fiscal officer of the taxing authority which qualifies for aid pursuant to this section. The application shall be made on a form prescribed by such comptroller and shall contain such information as such comptroller shall require. On or before January fifteenth the comptroller, in consultation with the ~~[board of real property services]~~ department of taxation and finance and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of state aid paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of such payments, as well as an estimate of payments to be made during the remainder of the current fiscal year and during the following fiscal year.

§ 3. Subdivision 6 of section 291-i of the real property law, as added by chapter 549 of the laws of 2011, is amended to read as follows:

6. Nothing contained in this section shall be construed to authorize a recording officer to furnish digitized paper documents of the reports required by section five hundred seventy-four of the real property tax law. Such reports shall be furnished as paper documents with the requisite notations thereon, except where the ~~[state board of real property services]~~ department of taxation and finance has agreed to accept data submissions in lieu thereof or has provided for the electronic transmission of such data pursuant to law.

§ 4. Subdivision 18 of section 102 of the real property tax law is REPEALED.

§ 5. The article heading of article 2 of the real property tax law is amended to read as follows:

~~[STATE BOARD]~~ COMMISSIONER OF TAXATION AND FINANCE

§ 6. Sections 200 and 200-A of the real property tax law are REPEALED.

§ 7. Subdivisions 1 and 7 of section 201 of the real property tax law, as added by section 5 of part W of chapter 56 of the laws of 2010, are amended to read as follows:

1. On and after the effective date of this section, the functions, powers and duties of the state board of real property services as formerly established by this chapter shall be considered functions, powers and duties of the commissioner of taxation and finance~~[, except to the extent provided by section two hundred-a of this article]~~.

7. (a) All rules, regulations, acts, orders, determinations, and decisions of the state board of real property services or the office of real property services, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the department until duly modified or abrogated by the commissioner or the department.

(b) All acts, orders, determinations, and decisions of the state board of real property services pertaining to the functions and powers provided in former section two hundred-a of this article shall continue in full force and effect as acts, orders, determinations and decisions of the ~~[state board of real property tax services]~~ commissioner.

§ 8. Section 203 of the real property tax law, as amended by section 7 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 203. Office of real property tax services. There is hereby created within the department of taxation and finance an office of real property tax services. The head of the office shall be a deputy commissioner for real property tax services~~[, who shall also be the executive officer for and secretary of the state board of real property tax services]~~. The

1 deputy commissioner for real property tax services shall be appointed by
2 the governor. He or she shall exercise such powers and duties in
3 relation to real property tax administration as may be delegated to him
4 or her by the commissioner, shall report directly to the commissioner on
5 the activities of the office, and shall hold office at the pleasure of
6 the commissioner. The commissioner may appoint such officers, employees,
7 agents, consultants and special committees as he or she may deem neces-
8 sary to carry out the provisions of this chapter, and shall prescribe
9 their duties.

10 § 9. Sections 204, 206 and 208 of the real property tax law are
11 REPEALED.

12 § 10. Clause (D) of subparagraph (iv) of paragraph (b) of subdivision
13 4 of section 425 of the real property tax law, as amended by section 1
14 of part PP of chapter 59 of the laws of 2019, is amended to read as
15 follows:

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

35 § 11. Paragraph (d) of subdivision 14 of section 425 of the real prop-
36 erty tax law, as added by section 1 of part J of chapter 57 of the laws
37 of 2013, is amended to read as follows:

38 (d) Notwithstanding the provisions of paragraph (b) of subdivision six
39 of this section, neither an assessor nor a board of assessment review
40 has the authority to consider an objection to the removal or denial of
41 an exemption pursuant to this subdivision, nor may such an action be
42 reviewed in a proceeding to review an assessment pursuant to title one
43 or one-A of article seven of this chapter. Such an action may only be
44 challenged before the department of taxation and finance. If a taxpayer
45 is dissatisfied with the department's final determination, ~~[the taxpayer~~
46 ~~may appeal that determination to the state board of real property tax~~
47 ~~services in a form and manner to be prescribed by the commissioner. Such~~
48 ~~appeal shall be filed within forty-five days from the issuance of the~~
49 ~~department's final determination. If dissatisfied with the state board's~~
50 ~~determination,]~~ the taxpayer may seek judicial review thereof pursuant
51 to article seventy-eight of the civil practice law and rules. The
52 taxpayer shall otherwise have no right to challenge such final determi-
53 nation in a court action, administrative proceeding or any other form of
54 legal recourse against the commissioner, the department of taxation and
55 finance, ~~[the state board of real property tax services,]~~ the assessor

1 or other person having custody or control of the assessment roll or tax
2 roll regarding such action.

3 § 12. Subparagraph (iii) of paragraph (b) of subdivision 15 of section
4 425 of the real property tax law, as amended by section 1 of part JJ of
5 chapter 60 of the laws of 2016, is amended to read as follows:

6 (iii) notwithstanding the provisions of paragraph (b) of subdivision
7 six of this section, neither an assessor nor a board of assessment
8 review has the authority to consider an objection to the recoupment of
9 an exemption pursuant to this subdivision, nor may such an action be
10 reviewed in a proceeding to review an assessment pursuant to title one
11 or one-A of article seven of this chapter. Such an action may only be
12 challenged before the department. If an owner is dissatisfied with the
13 department's final determination, [~~the owner may appeal that determi-~~
14 ~~nation to the board in a form and manner to be prescribed by the commis-~~
15 ~~sioner. Such appeal shall be filed within forty five days from the issu-~~
16 ~~ance of the department's final determination. If dissatisfied with the~~
17 ~~board's determination,~~] the owner may seek judicial review thereof
18 pursuant to article seventy-eight of the civil practice law and rules.
19 The owner shall otherwise have no right to challenge such final determi-
20 nation in a court action, administrative proceeding, including but not
21 limited to an administrative proceeding pursuant to article forty of the
22 tax law, or any other form of legal recourse against the commissioner,
23 the department, [~~the board,~~] the assessor, or any other person, state
24 agency, or local government.

25 § 13. Section 489-o of the real property tax law, as amended by
26 section 13 of part W of chapter 56 of the laws of 2010, is amended to
27 read as follows:

28 § 489-o. Final determination of railroad ceiling; certificate. 1.
29 After the hearing provided for in section four hundred eighty-nine-n of
30 this title, the [~~state board of real property tax services~~] commissioner
31 shall finally determine the railroad ceiling for the railroad real prop-
32 erty of each railroad company situated in each assessing unit. Whenever
33 upon complaint the [~~state board~~] commissioner shall revise the local
34 reproduction cost of a railroad company in an assessing unit, [~~it~~] he or
35 she shall revise the railroad ceiling therefor to reflect such revision,
36 but [~~it~~] he or she shall not, on account of such revision, modify any
37 other determination with respect to the railroad ceilings for such rail-
38 road company for such year. Notwithstanding the fact that no complaint
39 shall have been filed with respect to a tentative determination of a
40 railroad ceiling, the [~~state board~~] commissioner shall give effect to
41 any special equalization rate established, pursuant to subdivision two
42 of section four hundred eighty-nine-1 of this title prior to the final
43 determination of the railroad ceiling.

44 2. Not later than ten days before the last date prescribed by law for
45 the levy of taxes, the [~~state board~~] commissioner shall file a certifi-
46 cate setting forth each railroad ceiling as finally determined with the
47 assessor of the appropriate assessing unit or the town or county asses-
48 sor who prepares a copy of the applicable part of the town or county
49 assessment roll for village tax purposes as provided in subdivision
50 three of section fourteen hundred two of this chapter, and at the same
51 time shall transmit to each railroad company for which such ceiling has
52 been determined a duplicate copy of such certificate.

53 3. Any final determination of a railroad ceiling by the [~~state board~~]
54 commissioner pursuant to subdivision one of this section shall be
55 subject to judicial review in a proceeding under article seventy-eight
56 of the civil practice law and rules.

§ 14. Section 489-ll of the real property tax law, as added by chapter 920 of the laws of 1977, subdivision 1 as amended by section 14 of part W of chapter 56 of the laws of 2010, subdivision 2 as amended by chapter 735 of the laws of 1983, and subdivision 3 as added by chapter 841 of the laws of 1986, is amended to read as follows:

§ 489-ll. Final determination of railroad ceiling; certificate. 1. After the hearing provided for in section four hundred eighty-nine-kk of this title, the ~~[state board of real property tax services]~~ commissioner shall finally determine the railroad ceiling for the railroad real property of each railroad company situated in each assessing unit. Whenever upon complaint the ~~[state board]~~ commissioner shall revise the local reproduction cost of a railroad company in an assessing unit, ~~[it]~~ he or she shall revise the appropriate railroad ceiling to reflect such revision, but ~~[it]~~ he or she shall not, on account of such revision, modify any other determination with respect to the railroad ceilings for such railroad company for such year. Notwithstanding the fact that no complaint shall have been filed with respect to a tentative determination of a railroad ceiling, the ~~[state board]~~ commissioner shall give effect to any special equalization rate established pursuant to subdivision two of section four hundred eighty-nine-jj of this title prior to the final determination of the railroad ceiling.

2. Not later than ten days before the last date prescribed by law for the levy of taxes, the ~~[state board]~~ commissioner shall file a certificate setting forth each railroad ceiling as finally determined with the assessor of the appropriate assessing unit or the town or county assessor who prepares a copy of the applicable part of the town or county assessment roll for village tax purposes as provided in subdivision three of section fourteen hundred two of this chapter, and at the same time shall transmit to each railroad company for which such ceiling has been determined a duplicate copy of such certificate.

3. Any final determination of a railroad ceiling by the ~~[state board]~~ commissioner pursuant to subdivision one of this section shall be subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules.

§ 15. Section 547 of the real property tax law, as amended by chapter 385 of the laws of 1994, is amended to read as follows:

§ 547. Annual report. On or before January fifteenth the comptroller, in consultation with the ~~[board of real property services]~~ commissioner and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of state aid, taxes and assessments paid by the state pursuant to this article during the preceding and current fiscal years. Such accounting shall include, but not be limited to, the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year.

§ 16. Section 614 of the real property tax law, as amended by section 15 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 614. Determination of final assessment of special franchises. After receiving the ~~[commissioner's]~~ hearing officer's report regarding any complaint filed pursuant to section six hundred twelve of this article, the ~~[state board of real property tax services]~~ commissioner shall determine the final assessment of each special franchise.

§ 17. Section 816 of the real property tax law, as amended by chapter 36 of the laws of 1980 and as further amended by subdivision (b) of

1 section 1 of part W of chapter 56 of the laws of 2010, is amended to
2 read as follows:

3 § 816. Review by [~~state board of real property tax services~~] commis-
4 sioner. The [~~state board of real property tax services~~] commissioner
5 shall have power on complaint to review the equalization made by any
6 county equalization agency. Such review shall be brought by filing the
7 complaint with the [~~state board of real property tax services~~] commis-
8 sioner at any time within thirty days from the date on which notice was
9 given pursuant to section eight hundred four of this article. Notice of
10 the hearing on such review shall be given by the [~~state board of real~~
11 ~~property tax services~~] commissioner to the clerk of the county legisla-
12 tive body, whose duty it shall be to transmit a copy of such notice to
13 each member of the county legislative body and to the chief executive
14 officer of each city and town in the county.

15 § 18. Section 818 of the real property tax law, as amended by chapter
16 615 of the laws of 1972, subdivision 3 as added by chapter 556 of the
17 laws of 2002, and subdivisions 1 and 3 as further amended by subdivision
18 (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended
19 to read as follows:

20 § 818. Determination on review. 1. On review of the equalization made
21 by the county equalization agency, the [~~state board of real property tax~~
22 ~~services~~] commissioner shall review such equalization and shall deter-
23 mine whether such equalization is fair and equitable and if not, what
24 corrections should be made. The [~~state board of real property tax~~
25 ~~services~~] commissioner shall certify its determination in writing to the
26 county legislative body and to the chief executive officer of each city
27 or town complaining, if any.

28 2. Such determination shall have the same force and effect as an
29 original equalization made by the county equalization agency within the
30 time prescribed by law.

31 3. If the [~~state board of real property tax services~~] commissioner
32 determines that the equalization made by a county equalization agency in
33 a county containing a designated large property, as that term is
34 described in section eight hundred forty-seven of this article, is not
35 fair and equitable, [~~it~~] he or she shall issue an order directing
36 correction of such equalization, which may include the apportionment and
37 levy of taxes in the manner provided in section eight hundred five of
38 this title.

39 § 19. Section 1210 of the real property tax law, as amended by section
40 17 of part W of chapter 56 of the laws of 2010, is amended to read as
41 follows:

42 § 1210. Establishment of final state equalization rates, class ratios
43 and class equalization rates. After receiving the [~~commissioner's~~] hear-
44 ing officer's report regarding any complaint filed pursuant to section
45 twelve hundred eight of this title, the [~~state board of real property~~
46 ~~tax services~~] commissioner shall establish the final state equalization
47 rate, class ratios, and class equalization rates, if required, for each
48 city, town, village, special assessing unit, or approved assessing unit
49 or eligible non-assessing unit village which has adopted the provisions
50 of section nineteen hundred three of this chapter.

51 § 20. Section 1218 of the real property tax law, as amended by section
52 18 of part W of chapter 56 of the laws of 2010, is amended to read as
53 follows:

54 § 1218. Review of final determinations of [~~state board of real proper-~~
55 ~~ty tax services~~] the commissioner relating to state equalization rates.
56 A final determination of the [~~state board of real property tax services~~]

1 commissioner relating to state equalization rates may be reviewed by
2 commencing an action in the appellate division of the supreme court in
3 the manner provided by article seventy-eight of the civil practice law
4 and rules upon application of the county, city, town or village for
5 which the rate or rates were established. The standard of review in such
6 a proceeding shall be as specified in subdivision four of section seven-
7 ty-eight hundred three of the civil practice law and rules. Whenever a
8 final order is issued in such a proceeding directing a revised state
9 equalization rate, any county, village or school district that used the
10 former rate in the apportionment of taxes must, upon receipt of such
11 final order, recalculate the levy that used such former rate and credit
12 or debit as appropriate its constituent municipalities in its next levy.
13 Any special franchise assessments that were established using the former
14 rate must, upon receipt of such final order, be revised by the [~~state~~
15 ~~board~~] commissioner in accordance with the new rate, and, if taxes have
16 already been levied upon such assessments, the affected special fran-
17 chise owners shall either automatically receive a refund if there is a
18 decrease or be taxed on an increase in the next levy in the manner
19 provided for omitted parcels in title three of article five of this
20 chapter.

21 § 21. Section 1263 of the real property tax law, as added by chapter
22 280 of the laws of 1978 and as further amended by subdivision (b) of
23 section 1 of part W of chapter 56 of the laws of 2010, is amended to
24 read as follows:

25 § 1263. Notice of determination of tentative ratios and opportunity to
26 be heard. Not later than ninety days prior to the ensuing fiscal year of
27 the city school district, the [~~state board of real property tax~~
28 ~~services~~] commissioner shall provide written notice of the determination
29 of tentative ratios pursuant to this article to the board of education
30 of each city school district. The notice shall set forth the tentative
31 ratios, identify the assessment rolls for which the ratios were deter-
32 mined and shall specify the time and place where the [~~state board of~~
33 ~~real property tax services~~] commissioner or a duly authorized represen-
34 tative thereof will meet to hear objections presented by the appropriate
35 board of education concerning such ratios. The notice must be served at
36 least ten days before the date specified for the hearing. After hearing
37 any objections, the [~~state board of real property tax services~~] commis-
38 sioner shall determine final ratios for the appropriate assessment rolls
39 in accordance with the provisions of this article. The board of educa-
40 tion is hereby authorized and empowered to waive the hearing with
41 respect to such tentative ratios.

42 § 22. This act shall take effect October 1, 2020.

43 PART S

44 Section 1. Paragraph (f) of subdivision 3 of section 425 of the real
45 property tax law is REPEALED.

46 § 2. Section 171-y of the tax law is REPEALED.

47 § 3. This act shall take effect immediately.

48 PART T

49 Section 1. Subdivision 3 of section 489-c of the real property tax
50 law, as amended by chapter 733 of the laws of 2004, is amended to read
51 as follows:

1 3. Railroad real property shall be assessed according to its condition
2 and ownership as of the [~~first~~] thirty-first day of [~~July~~] December of
3 the year preceding the year in which the assessment roll on which such
4 assessment will be entered is filed in the office of the city or town
5 clerk, except that it shall be assessed according to its condition and
6 ownership as of the [~~first~~] thirty-first day of [~~July~~] December of the
7 second year preceding the date required by law for the filing of the
8 final assessment roll for purposes of all village assessment rolls.

9 § 2. Subdivision 3 of section 489-cc of the real property tax law, as
10 amended by chapter 733 of the laws of 2004, is amended to read as
11 follows:

12 3. Railroad real property shall be assessed according to its condition
13 and ownership as of the [~~first~~] thirty-first day of [~~July~~] December of
14 the year preceding the year in which the assessment roll on which such
15 assessment will be entered is filed in the office of the city or town
16 clerk, except that it shall be assessed according to its condition and
17 ownership as of the [~~first~~] thirty-first day of [~~July~~] December of the
18 second year preceding the date required by law for the filing of the
19 final assessment roll for purposes of all village assessment rolls.

20 § 3. Section 499-nnnn of the real property tax law, as added by chap-
21 ter 475 of the laws of 2013, is amended to read as follows:

22 § 499-nnnn. Equalization rate. In determining assessment ceilings, the
23 commissioner shall apply the final state equalization rate [~~for the~~
24 ~~assessment roll of the local assessing jurisdiction for which the ceil-~~
25 ~~ing is established. If that final rate is not available, the commission-~~
26 ~~er shall apply the most recent final state equalization rate for the~~
27 ~~local assessing jurisdiction, except that if a special equalization rate~~
28 ~~has been established as provided in title two of article twelve of this~~
29 ~~chapter, such rate shall be applied. In the case of a special assessing~~
30 ~~unit as defined in section eighteen hundred one of this chapter, the~~
31 ~~equalization rate to be applied shall be the applicable class equaliza-~~
32 ~~tion rate]~~ used for the local assessing jurisdiction on the assessment
33 roll for the year immediately preceding the year in which the assessment
34 ceiling is being established, except that (1) if a special equalization
35 rate was used on such assessment roll, such rate shall be applied, and
36 (2) in the case of a special assessing unit as defined in section eigh-
37 teen hundred one of this chapter, the equalization rate to be applied
38 shall be the applicable class equalization rate used on such assessment
39 roll.

40 § 4. Subdivision 2 of section 499-pppp of the real property tax law,
41 as added by chapter 475 of the laws of 2013, is amended to read as
42 follows:

43 2. Notwithstanding that a complaint may not have been filed with
44 respect to a tentative determination of an assessment ceiling, the
45 commissioner shall give effect to any special equalization rate estab-
46 lished pursuant to section twelve hundred twenty-four of this chapter
47 [~~or the final state equalization rate for the assessment roll for which~~
48 ~~the ceiling is established as provided in section four hundred ninety-~~
49 ~~nine-nnnn of this title]~~ prior to the date for the final determination
50 of the assessment ceiling.

51 § 5. Section 3 of chapter 475 of the laws of 2013 amending the real
52 property tax law relating to assessment ceilings for local public utili-
53 ty mass real property is REPEALED.

54 § 6. This act shall take effect immediately; provided, however, that
55 the amendments to title 5 of article 4 of the real property tax law made

1 by sections three and four of this act shall not affect the repeal of
2 such title and shall be deemed to be repealed therewith.

3 PART U

4 Section 1. Clause (A) of subparagraph (iv) of paragraph (b) of subdivi-
5 sion 4 of section 425 of the real property tax law, as amended by
6 section 1 of part PP of chapter 59 of the laws of 2019, is amended to
7 read as follows:

8 (A) Effective with applications for the enhanced exemption on final
9 assessment rolls to be completed in two thousand nineteen, the applica-
10 tion form shall indicate that all owners of the property and any owners'
11 spouses residing on the premises must have their income eligibility
12 verified annually by the department and must furnish their taxpayer
13 identification numbers in order to facilitate matching with records of
14 the department. The income eligibility of such persons shall be verified
15 annually by the department, and the assessor shall not request income
16 documentation from them. All applicants for the enhanced exemption and
17 all assessing units shall be required to participate in this program,
18 which shall be known as the STAR income verification program. The
19 commissioner may, in his or her discretion, extend the enrollment period
20 of the STAR income verification program for property owners whose prop-
21 erty received the enhanced exemption on the final assessment roll
22 completed in two thousand eighteen but who failed to enroll in suffi-
23 cient time to have the exemption continued on the final assessment roll
24 completed in two thousand nineteen. Where appropriate, the commissioner
25 is further authorized to remit directly to such a property owner a
26 payment in an amount equal to the difference between the school tax bill
27 that the property owner actually received and the school tax bill that
28 the property owner would have received had he or she enrolled in a time-
29 ly manner.

30 § 2. This act shall take effect immediately.

31 PART V

32 Section 1. Section 902 of the racing, pari-mutuel wagering and breed-
33 ing law is amended by adding a new subdivision 7 to read as follows:

34 7. A franchised racing corporation may, in its discretion and at its
35 expense, fund for the exclusive use or utilization of the commission,
36 the construction and initial equipping of an equine drug testing and
37 research laboratory located within this state to be used for such
38 purposes specified in subdivision one of this section. Such corporation
39 shall consult with the commission regarding the proper scope and equip-
40 ping of a laboratory. The siting and use of such laboratory shall be
41 pursuant to a long-term lease between the corporation and the commis-
42 sion. The commission shall operate or contract for the operation of such
43 laboratory.

44 § 2. Paragraph 3 of subdivision f of section 1612 of the tax law, as
45 amended by chapter 174 of the laws of 2013, is amended to read as
46 follows:

47 3. Four percent of the total revenue wagered after payout of prizes to
48 be deposited into an account of the franchised corporation established
49 pursuant to section two hundred six of the racing, pari-mutuel wagering
50 and breeding law to be used for capital expenditures in maintaining and
51 upgrading Aqueduct racetrack, Belmont Park racetrack and Saratoga race
52 course. Capital expenditures may include funding the construction of and

1 initially equipping a state-based equine drug testing and research labo-
2 ratory to be used pursuant to subdivision seven of section nine hundred
3 two of the racing, pari-mutuel wagering and breeding law.

4 § 3. This act shall take effect immediately.

5 PART W

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

8 ARTICLE XI-A

9 INTERSTATE COMPACT ON ANTI-DOPING

10 AND DRUG TESTING STANDARDS

11 Section 1113. Purposes.

12 1114. Definitions.

13 1115. Composition and meetings of compact commission.

14 1116. Operation of compact commission.

15 1117. General powers and duties.

16 1118. Other powers and duties.

17 1119. Compact rule making.

18 1120. Status and relationship to member states.

19 1121. Rights and responsibilities of member states.

20 1122. Enforcement of compact.

21 1123. Legal actions against compact.

22 1124. Restrictions on authority.

23 1125. Construction, savings and severability.

24 § 1113. Purposes. The purposes of the compact are:

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

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

33 § 1114. Definitions. For the purposes of this article, the following
34 terms shall have the following meanings:

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

38 b. "Compact rule" means a rule or regulation adopted by a member state
39 regulating the permitted and prohibited use of drugs and medications for
40 the health and welfare of the horse and the integrity of racing, and
41 testing for such substances, in live pari-mutuel horse racing that
42 occurs in or affects such states;

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

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

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

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

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

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

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

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

15 § 1115. Composition and meetings of compact commission. The member
16 states shall create and participate in a compact commission as follows:

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

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

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

40 d. The compact delegate from each state shall participate as an agent
41 of the state racing commission. Each delegate shall have the assistance
42 of the state racing commission in regard to all decision making and
43 actions of the state in and through the compact commission.

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

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

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

5 h. Once effective, the compact shall continue in force and remain
6 binding according to its terms upon each member state; provided that, a
7 member state may withdraw from the compact by repealing the statute that
8 enacted the compact into law. The racing commission of a withdrawing
9 state shall give written notice of such withdrawal to the compact chair-
10 person, who shall notify the member state racing commissions. A with-
11 drawing state shall remain responsible for any unfulfilled obligations
12 and liabilities. The effective date of withdrawal from the compact shall
13 be the effective date of the repeal.

14 § 1116. Operation of compact commission. The compact commission is
15 hereby granted, so that it may be an effective means to pursue and
16 achieve the purposes of each member state in the compact, the power and
17 duty:

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

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

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

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

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

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

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

47 § 1117. General powers and duties. To allow each member state, as and
48 when it chooses, to achieve the purpose of the compact through joint and
49 cooperative action, the member states are hereby granted the power and
50 duty, by and through the compact commission:

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

1 b. to collaborate with national industry stakeholders and industry
2 organizations in the design and implementation of compact rules in a
3 manner that serves the best interests of racing; and

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

10 § 1118. Other powers and duties. The compact commission may exercise
11 such incidental powers and duties as may be necessary and proper for it
12 to function in a useful manner, including but not limited to the power
13 and duty:

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

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

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

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

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

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

32 § 1119. Compact rule making. In the exercise of its rule making
33 authority, the compact commission shall:

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

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

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

54 d. have a standing committee that reviews at least quarterly the
55 participation in and value of compact rules and, when it determines that
56 a revision is appropriate or when requested to by any member state,

1 submits a revising proposed compact rule. To the extent a revision would
2 only add or remove a member state or states from where a compact rule
3 has been adopted, the vote required by this section shall be required of
4 only such state or states. The standing committee shall gather informa-
5 tion and engage in discussions with national industry stakeholders, who
6 may also directly recommend a compact rule proposal or revision to the
7 compact committee.

8 § 1120. Status and relationship to member states. a. The compact
9 commission, as an interstate governmental entity, shall be exempt from
10 all taxation in and by the member states.

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

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

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

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

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

31 § 1121. Rights and responsibilities of member states. a. Each member
32 state in the compact shall accept the decisions, duly applicable to it,
33 of the compact commission in regard to compact rules and rule making.

34 b. The compact shall not be construed to diminish or limit the powers
35 and responsibilities of the member state racing commission or similar
36 regulatory body, or to invalidate any action it has previously taken,
37 except to the extent it has, by its compact delegate, expressed its
38 consent to a specific rule or other action of the compact commission.
39 The compact delegate from each state shall serve as the agent of the
40 state racing commission and shall possess substantial knowledge and
41 experience as a regulator or participant in the horse racing industry.

42 § 1122. Enforcement of compact. a. The compact commission shall have
43 standing to intervene in any legal action that pertains to the subject
44 matter of the compact and might affect its powers, duties, or actions.

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

50 § 1123. Legal actions against compact. a. Any person may commence a
51 claim, action, or proceeding against the compact commission in state
52 court for damages. The compact commission shall have the benefit of the
53 same limits of liability, defenses, rights to indemnity and defense by
54 the state, and other legal rights and defenses for non-compact matters
55 of the state racing commission in the state. All legal rights and

1 defenses that arise from the compact shall also be available to the
2 compact commission.

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

14 c. Each member state shall be liable for and pay judgments filed
15 against the compact commission to the extent related to its partic-
16 ipation in the compact. Where liability arises from action undertaken
17 jointly with other member states, the liability shall be divided equally
18 among the states for whom the applicable action or omission of the exec-
19 utive director or other employees of the compact commission was under-
20 taken; and no member state shall contribute to or pay, or be jointly or
21 severally or otherwise liable for, any part of any judgment beyond its
22 share as determined in accordance with this section.

23 § 1124. Restrictions on authority. a. New York substantive state laws
24 applicable to pari-mutuel horse racing and wagering shall remain in full
25 force and effect.

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

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

31 § 1125. Construction, savings and severability. a. The compact shall
32 be liberally construed so as to effectuate its purposes. The provisions
33 of the compact shall be severable and if any phrase, clause, sentence,
34 or provision of the compact is declared to be contrary to the constitu-
35 tion of the United States or of any member state, or the applicability
36 of the compact to any government, agency, person, or circumstance is
37 held invalid, the validity of the remainder of the compact and its
38 applicability to any government, agency, person, or circumstance shall
39 not be affected. If all or some portion of the compact is held to be
40 contrary to the constitution of any member state, the compact shall
41 remain in full force and effect as to the remaining member states and in
42 full force and effect as to the state affected as to all severable
43 matters.

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

49 § 2. This act shall take effect immediately.

50 PART X

51 Section 1. Paragraph (b) of subdivision 3 of section 1367 of the
52 racing, pari-mutuel wagering and breeding law, as added by chapter 174
53 of the laws of 2013, is amended to read as follows:

(b) A sports pool shall be primarily operated in a sports wagering lounge located at a casino. The lounge shall conform to all requirements concerning square footage, design, equipment, security measures and related matters which the commission shall by regulation prescribe. The commission may also approve additional locations for a sports pool within the casino, in areas that have been approved by the commission for the conduct of other gaming, to be operated in a manner and methodology as regulation shall prescribe.

§ 2. This act shall take effect immediately.

PART Y

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

(1) sixty percent of the total amount for which tickets have been sold for [~~a lawful lottery~~] the Quick Draw game [~~introduced on or after the effective date of this paragraph,~~] subject to [~~the following provisions:~~

~~(A) such game shall be available only on premises occupied by licensed lottery sales agents, subject to the following provisions:~~

~~(i) if the licensee does not hold a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises, then the premises must have a minimum square footage greater than two thousand five hundred square feet;~~

~~(ii) notwithstanding the foregoing provisions, television equipment that automatically displays the results of such drawings may be installed and used without regard to the square footage if such premises are used as:~~

~~(I) a commercial bowling establishment, or~~

~~(II) a facility authorized under the racing, pari-mutuel wagering and breeding law to accept pari-mutuel wagers;~~

~~(B) the~~ rules for the operation of such game [~~shall be~~] as prescribed by regulations promulgated and adopted by the division, provided however, that such rules shall provide that no person under the age of twenty-one may participate in such games on the premises of a licensee who holds a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises; and, provided, further, that such regulations may be revised on an emergency basis not later than ninety days after the enactment of this paragraph in order to conform such regulations to the requirements of this paragraph; or

§ 2. This act shall take effect immediately.

PART Z

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license

1 shall be issued by the commission authorizing the simulcast transmission
2 of thoroughbred races from a track located in Suffolk county. The fee
3 for such licenses shall be five hundred dollars per simulcast facility
4 and for account wagering licensees that do not operate either a simul-
5 cast facility that is open to the public within the state of New York or
6 a licensed racetrack within the state, twenty thousand dollars per year
7 payable by the licensee to the commission for deposit into the general
8 fund. Except as provided in this section, the commission shall not
9 approve any application to conduct simulcasting into individual or group
10 residences, homes or other areas for the purposes of or in connection
11 with pari-mutuel wagering. The commission may approve simulcasting into
12 residences, homes or other areas to be conducted jointly by one or more
13 regional off-track betting corporations and one or more of the follow-
14 ing: a franchised corporation, thoroughbred racing corporation or a
15 harness racing corporation or association; provided (i) the simulcasting
16 consists only of those races on which pari-mutuel betting is authorized
17 by this chapter at one or more simulcast facilities for each of the
18 contracting off-track betting corporations which shall include wagers
19 made in accordance with section one thousand fifteen, one thousand
20 sixteen and one thousand seventeen of this article; provided further
21 that the contract provisions or other simulcast arrangements for such
22 simulcast facility shall be no less favorable than those in effect on
23 January first, two thousand five; (ii) that each off-track betting
24 corporation having within its geographic boundaries such residences,
25 homes or other areas technically capable of receiving the simulcast
26 signal shall be a contracting party; (iii) the distribution of revenues
27 shall be subject to contractual agreement of the parties except that
28 statutory payments to non-contracting parties, if any, may not be
29 reduced; provided, however, that nothing herein to the contrary shall
30 prevent a track from televising its races on an irregular basis primari-
31 ly for promotional or marketing purposes as found by the commission. For
32 purposes of this paragraph, the provisions of section one thousand thir-
33 teen of this article shall not apply. Any agreement authorizing an
34 in-home simulcasting experiment commencing prior to May fifteenth, nine-
35 teen hundred ninety-five, may, and all its terms, be extended until June
36 thirtieth, two thousand [~~twenty~~] **twenty-one**; provided, however, that any
37 party to such agreement may elect to terminate such agreement upon
38 conveying written notice to all other parties of such agreement at least
39 forty-five days prior to the effective date of the termination, via
40 registered mail. Any party to an agreement receiving such notice of an
41 intent to terminate, may request the commission to mediate between the
42 parties new terms and conditions in a replacement agreement between the
43 parties as will permit continuation of an in-home experiment until June
44 thirtieth, two thousand [~~twenty~~] **twenty-one**; and (iv) no in-home simul-
45 casting in the thoroughbred special betting district shall occur without
46 the approval of the regional thoroughbred track.

47 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
48 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
49 section 2 of part HH of chapter 59 of the laws of 2019, is amended to
50 read as follows:

51 (iii) Of the sums retained by a receiving track located in Westchester
52 county on races received from a franchised corporation, for the period
53 commencing January first, two thousand eight and continuing through June
54 thirtieth, two thousand [~~twenty~~] **twenty-one**, the amount used exclusively
55 for purses to be awarded at races conducted by such receiving track
56 shall be computed as follows: of the sums so retained, two and one-half

1 percent of the total pools. Such amount shall be increased or decreased
2 in the amount of fifty percent of the difference in total commissions
3 determined by comparing the total commissions available after July twen-
4 ty-first, nineteen hundred ninety-five to the total commissions that
5 would have been available to such track prior to July twenty-first,
6 nineteen hundred ninety-five.

7 § 3. The opening paragraph of subdivision 1 of section 1014 of the
8 racing, pari-mutuel wagering and breeding law, as amended by section 3
9 of part HH of chapter 59 of the laws of 2019, is amended to read as
10 follows:

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

28 § 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering
29 and breeding law, as amended by section 4 of part HH of chapter 59 of
30 the laws of 2019, is amended to read as follows:

31 1. The provisions of this section shall govern the simulcasting of
32 races conducted at harness tracks located in another state or country
33 during the period July first, nineteen hundred ninety-four through June
34 thirtieth, two thousand [~~twenty~~] twenty-one. This section shall super-
35 sede all inconsistent provisions of this chapter.

36 § 5. The opening paragraph of subdivision 1 of section 1016 of the
37 racing, pari-mutuel wagering and breeding law, as amended by section 5
38 of part HH of chapter 59 of the laws of 2019, is amended to read as
39 follows:

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

§ 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

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

§ 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

§ 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, ~~2020~~ 2021; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

§ 8. Section 54 of chapter 346 of the laws of 1990, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, as amended by section 8 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

§ 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, ~~2020~~ 2021; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between twelve to seventeen per centum of the

1 total deposits in pools resulting from on-track regular bets, and four-
2 teen to twenty-one per centum of the total deposits in pools resulting
3 from on-track multiple bets and fifteen to twenty-five per centum of the
4 total deposits in pools resulting from on-track exotic bets and fifteen
5 to thirty-six per centum of the total deposits in pools resulting from
6 on-track super exotic bets, plus the breaks. The retention rate to be
7 established is subject to the prior approval of the gaming commission.

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

30 For the period June first, nineteen hundred ninety-five through
31 September ninth, nineteen hundred ninety-nine, such tax on regular
32 wagers shall be three per centum and such tax on multiple wagers shall
33 be two and one-half per centum, plus twenty per centum of the breaks.
34 For the period September tenth, nineteen hundred ninety-nine through
35 March thirty-first, two thousand one, such tax on all wagers shall be
36 two and six-tenths per centum and for the period April first, two thou-
37 sand one through December thirty-first, two thousand [~~twenty~~]
38 twenty-one, such tax on all wagers shall be one and six-tenths per
39 centum, plus, in each such period, twenty per centum of the breaks.
40 Payment to the New York state thoroughbred breeding and development fund
41 by such franchised corporation shall be one-half of one per centum of
42 total daily on-track pari-mutuel pools resulting from regular, multiple
43 and exotic bets and three per centum of super exotic bets provided,
44 however, that for the period September tenth, nineteen hundred ninety-
45 nine through March thirty-first, two thousand one, such payment shall be
46 six-tenths of one per centum of regular, multiple and exotic pools and
47 for the period April first, two thousand one through December thirty-
48 first, two thousand [~~twenty~~] twenty-one, such payment shall be seven-
49 tenths of one per centum of such pools.

50 § 10. This act shall take effect immediately.

51 PART AA

52 Section 1. Paragraph (b-1) of subdivision 3 of section 425 of the real
53 property tax law, as amended by section 1 of part RR of chapter 59 of
54 the laws of 2019, is amended to read as follows:

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

§ 2. This act shall take effect immediately.

PART BB

Section 1. This act shall be known and may be cited as the "Cannabis Regulation and Taxation Act".

§ 2. A new chapter 7-A of the consolidated laws is added to read as follows:

CHAPTER 7-A OF THE CONSOLIDATED LAWS

CANNABIS LAW

ARTICLE 1

SHORT TITLE; POLICY OF STATE AND PURPOSE OF CHAPTER; DEFINITIONS

Section 1. Short title.

2. Policy of state and purpose of chapter.

3. Definitions.

§ 1. Short title. This chapter shall be known and may be cited and referred to as the "cannabis law".

§ 2. Policy of state and purpose of chapter. It is hereby declared as policy of the state of New York that it is necessary to properly regulate, restrict, and control the cultivation, processing, manufacture, wholesale, and retail production, distribution, transportation, advertising, marketing, and sale of cannabis, cannabis products, medical cannabis, and cannabinoid hemp within the state of New York, for the purposes of fostering and promoting temperance in their consumption, to properly protect the public health, safety, and welfare, to displace the illicit cannabis market, to provide safe and affordable access to medical cannabis for patients, and to promote social and economic equality. It is hereby declared that such policy will best be carried out by empowering the state office of cannabis management and its executive director, to determine whether public health, safety, convenience and

1 advantage will be promoted by the issuance of registrations, licenses
2 and/or permits granting the privilege to produce, distribute, transport,
3 sell, or traffic in cannabis, medical cannabis, or cannabinoid hemp, to
4 increase or decrease in the number thereof, scope of activities, and the
5 location of premises registered, licensed, or permitted thereby, subject
6 only to the right of judicial review hereinafter provided for. It is the
7 purpose of this chapter to carry out that policy in the public interest.
8 The restrictions, regulations, and provisions contained in this chapter
9 are enacted by the legislature for the protection of the health, safety,
10 and welfare of the people of the state.

11 § 3. Definitions. Whenever used in this chapter, unless otherwise
12 expressly stated or unless the context or subject matter requires a
13 different meaning, the following terms shall have the representative
14 meanings hereinafter set forth or indicated:

15 1. "Applicant" means a person or for-profit entity or not-for-profit
16 corporation and includes: board members, officers, managers, owners,
17 partners, principal stakeholders, financiers, and members who submit an
18 application to become a registered organization, licensee or permittee,
19 and may include any other individual or entity with a material or opera-
20 tional interest in the license or its operations as determined by its
21 executive director in regulation.

22 2. "Bona fide cannabis retailer association" shall mean an association
23 of retailers holding licenses under this chapter, organized under the
24 non-profit or not-for-profit laws of this state.

25 3. "Cannabis" means all parts of the plant of the genus cannabis,
26 whether growing or not; the seeds thereof; the resin extracted from any
27 part of the plant; and every compound, manufacture, salt, derivative,
28 mixture, or preparation of the plant, its seeds or resin.

29 4. "Concentrated cannabis" means: (a) the separated resin, whether
30 crude or purified, obtained from a plant of the genus cannabis; or (b) a
31 material, preparation, mixture, compound or other substance which
32 contains more than three-tenths of one percent by weight or by volume of
33 delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran
34 numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta 1
35 (6) monoterpene numbering system or which exceeds an amount of delta-9
36 tetrahydrocannabinol or its isomer, delta-8 dibenzopyran numbering
37 system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) mono-
38 terpene numbering system per serving or per product determined by the
39 executive director in regulation.

40 5. "Adult-use cannabis consumer" means a person, twenty-one years of
41 age or older, who purchases approved adult-use cannabis or adult-use
42 cannabis products for personal use, but not for resale to others.

43 6. "Adult-use cannabis processor" means a person licensed by the
44 office who may purchase adult-use cannabis from adult-use cannabis
45 cultivators, and who may process adult-use cannabis, and adult-use
46 cannabis products, package and label adult-use cannabis, and adult-use
47 cannabis products for sale in adult-use cannabis retail outlets, and who
48 may sell adult-use cannabis and cannabis-infused products at wholesale
49 to licensed adult-use cannabis distributors, in accordance with regu-
50 lations determined by the executive director.

51 7. "Adult-use cannabis product" or "adult-use cannabis" means any
52 approved adult-use cannabis, concentrated cannabis, or adult-use canna-
53 bis-infused or extracted products, or products which otherwise contain
54 or are derived from adult-use cannabis, and which have been authorized
55 for distribution to and for use by an adult-use cannabis consumer as
56 determined by the executive director in regulation.

1 8. "Adult-use cannabis retail dispenser" means a person or entity
2 licensed by the executive director who may purchase adult-use cannabis
3 products, from adult-use cannabis cultivators, processors or distribu-
4 tors, and who may sell approved adult-use cannabis products, in a retail
5 outlet, in accordance with regulations determined by the executive
6 director.

7 9. "Certified medical use" means the acquisition, possession, use, or
8 transportation of medical cannabis by a certified patient, or the acqui-
9 sition, possession, delivery, transportation or administration of
10 medical cannabis by a designated caregiver or designated caregiver
11 facility, for use as part of the treatment of the patient's serious
12 condition, as authorized in a certification under this chapter including
13 enabling the patient to tolerate treatment for the serious condition.

14 10. "Caring for" means treating a patient, in the course of which the
15 practitioner has completed a full assessment of the patient's medical
16 history and current medical condition.

17 11. "Certified patient" means a patient who is a resident of New York
18 state or receiving care and treatment in New York state as determined by
19 the executive director in regulation, and is certified under section
20 thirty of this chapter.

21 12. "Certification" means a certification, made under this chapter.

22 13. "Adult-use cultivation" shall include, the planting, growing,
23 cloning, harvesting, drying, curing, grading and trimming of adult-use
24 cannabis, or such other cultivation related processes as determined by
25 the executive director in regulation.

26 14. "Executive director" means the executive director of the office of
27 cannabis management.

28 15. "Convicted" and "conviction" include and mean a finding of guilt
29 resulting from a plea of guilty, the decision of a court or magistrate
30 or the verdict of a jury, irrespective of the pronouncement of judgment
31 or the suspension thereof.

32 16. "Designated caregiver" means an individual designated by a certi-
33 fied patient in a registry application. A certified patient may desig-
34 nate up to two designated caregivers.

35 17. "Designated caregiver facility" means a general hospital or resi-
36 dential health care facility operating pursuant to article twenty-eight
37 of the public health law; an adult care facility operating pursuant to
38 title two of article seven of the social services law; a community
39 mental health residence established pursuant to section 41.44 of the
40 mental hygiene law; a hospital operating pursuant to section 7.17 of the
41 mental hygiene law; a mental hygiene facility operating pursuant to
42 article thirty-one of the mental hygiene law; an inpatient or residen-
43 tial treatment program certified pursuant to article thirty-two of the
44 mental hygiene law; a residential facility for the care and treatment of
45 persons with developmental disabilities operating pursuant to article
46 sixteen of the mental hygiene law; a residential treatment facility for
47 children and youth operating pursuant to article thirty-one of the
48 mental hygiene law; a private or public school; research institution
49 with an internal review board; or any other facility as determined by
50 the executive director in regulation; that registers with the office of
51 cannabis management to assist one or more certified patients with the
52 acquisition, possession, delivery, transportation or administration of
53 medical cannabis.

54 18. "Felony" means any criminal offense classified as a felony under
55 the laws of this state or any criminal offense committed in any other
56 state, district, or territory of the United States and classified as a

1 felony therein which if committed within this state, would constitute a
2 felony in this state.

3 19. "Form of medical cannabis" means characteristics of the medical
4 cannabis recommended or limited for a particular certified patient,
5 including the method of consumption and any particular strain, variety,
6 and quantity or percentage of cannabis or particular active ingredient.

7 20. "Government agency" means any office, division, board, bureau,
8 commission, office, agency, authority or public corporation of the state
9 or federal government or a county, city, town or village government
10 within the state.

11 21. "Hemp" means the plant *Cannabis sativa* L. and any part of such
12 plant, including the seeds thereof and all derivatives, extracts, canna-
13 binoids, isomers, acids, salts, and salts of isomers, whether growing or
14 not, with a delta-9 tetrahydrocannabinol concentration of not more than
15 three-tenths of one percent on a dry weight or per volume basis.

16 22. "Cannabinoid hemp" means any hemp and any product processed or
17 derived from hemp, that is used for human consumption provided that when
18 such product is packaged or offered for retail sale to a consumer, it
19 shall not have a concentration of more than three-tenths of one percent
20 of delta-9 tetrahydrocannabinol or more than an amount of delta-9
21 tetrahydrocannabinol per quantity of cannabinoid hemp product as deter-
22 mined by the executive director in regulation.

23 23. "Cannabinoid hemp processor license" means a license granted by
24 the office to process, extract, pack or manufacture cannabinoid hemp or
25 hemp extract into products, whether in intermediate or final form, used
26 for human consumption.

27 24. "Cannabinoid hemp retailer license" means a license granted by the
28 office to sell cannabinoid hemp, in final approved form, to consumers
29 within the state.

30 25. "Individual dose" means a single measure of adult-use cannabis,
31 medical cannabis or cannabinoid hemp product, as determined by the exec-
32 utive director in regulation. Individual doses may be established
33 through a measure of raw material, a measure of an individual cannabi-
34 noid or compound, or an equivalency thereof.

35 26. "Labor peace agreement" means an agreement between an entity and a
36 labor organization that, at a minimum, protects the state's proprietary
37 interests by prohibiting labor organizations and members from engaging
38 in picketing, work stoppages, boycotts, and any other economic interfer-
39 ence with the registered organization or licensee's business.

40 27. "License" means a license issued pursuant to this chapter.

41 28. "Medical cannabis" means cannabis as defined in subdivision three
42 of this section, intended and approved for a certified medical use, as
43 determined by the executive director in consultation with the commis-
44 sioner of health.

45 30. "Office" or "office of cannabis management" means the New York
46 state office of cannabis management.

47 31. "Permit" means a permit issued pursuant to this chapter.

48 32. "Permittee" means any person to whom a permit has been issued
49 pursuant to this chapter.

50 33. "Person" means individual, institution, corporation, government or
51 governmental subdivision or agency, business trust, estate, trust, part-
52 nership or association, or any other legal entity.

53 34. "Practitioner" means a practitioner who: (i) is authorized to
54 prescribe controlled substances within the state, (ii) by training or
55 experience is qualified to treat a serious condition as defined in
56 subdivision forty-three of this section; and (iii) completes, at a mini-

1 mum, a two-hour course as determined by the executive director in regu-
2 lation; provided however, the executive director may revoke a practi-
3 tioner's ability to certify patients for cause.

4 35. "Processing" includes, blending, extracting, infusing, packaging,
5 labeling, branding and otherwise making or preparing adult-use cannabis,
6 medical cannabis and cannabinoid hemp, or such other related processes
7 as determined by the executive director in regulation. Processing shall
8 not include the cultivation of cannabis.

9 36. "Registered organization" means an organization registered under
10 article three of this chapter.

11 37. "Registry application" means an application properly completed and
12 filed with the office of cannabis management by a certified patient
13 under article three of this chapter.

14 38. "Registry identification card" means a document that identifies a
15 certified patient or designated caregiver, as provided under section
16 thirty-two of this chapter.

17 39. "Retail sale" or "sale at retail" means a sale to a consumer or to
18 any person for any purpose other than for resale.

19 40. "Retailer" means any licensed person who sells at retail any
20 approved adult-use cannabis product.

21 41. "Sale" means any transfer, exchange or barter in any manner or by
22 any means whatsoever, and includes and means all sales made by any
23 person, whether principal, proprietor, agent, servant or employee of any
24 cannabis product.

25 42. "To sell" includes to solicit or receive an order for, to keep or
26 expose for sale, and to keep with intent to sell and shall include the
27 transportation or delivery of any cannabis product in the state.

28 43. "Serious condition" means having one of the following severe
29 debilitating or life-threatening conditions: cancer, positive status for
30 human immunodeficiency virus or acquired immune deficiency syndrome,
31 amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis,
32 damage to the nervous tissue of the spinal cord with objective neurolog-
33 ical indication of intractable spasticity, epilepsy, inflammatory bowel
34 disease, neuropathies, Huntington's disease, post-traumatic stress
35 disorder, pain that degrades health and functional capability where the
36 use of medical cannabis is an alternative to opioid use, substance use
37 disorder, Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthri-
38 tis, autism, any condition authorized as part of a cannabis research
39 license, or any other condition as added by the executive director.

40 44. "Traffic in" includes to cultivate, process, manufacture, distrib-
41 ute or sell any cannabis, adult-use cannabis product or medical cannabis
42 at wholesale or retail.

43 45. "Terminally ill" means an individual has a medical prognosis that
44 the individual's life expectancy is approximately one year or less if
45 the illness runs its normal course.

46 46. "Wholesale sale" or "sale at wholesale" means a sale to any person
47 for purposes of resale.

48 47. "Distributor" means any person who sells at wholesale any adult-
49 use cannabis product, except medical cannabis, the sale of which a
50 license is required under the provisions of this chapter.

51 48. "Warehouse" means and includes a place in which cannabis products
52 are housed or stored.

53 ARTICLE 2

54 NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

55 Section 7. Establishment of an office of cannabis management.

8. Establishment of the cannabis control board.
9. Functions, powers and duties of the cannabis control board.
10. Executive director.
11. Functions, powers and duties of the office and executive director.
12. Rulemaking authority.
13. Deputies; employees.
14. Disposition of moneys received for license fees.
15. Violations of cannabis laws or regulations; penalties and injunctions.
16. Formal hearings; notice and procedure.
17. Ethics, transparency and accountability.
18. Public health campaign.
19. Traffic safety oral fluid or other roadside detection method pilot program.
20. Establish uniform policies and best practices.

§ 7. Establishment of an office of cannabis management. There is hereby established, within the division of alcoholic beverage control, an independent office of cannabis management, which shall have exclusive jurisdiction to exercise the powers and duties provided by this chapter. The office shall exercise its authority by and through a cannabis control board and an executive director.

§ 8. Establishment of the cannabis control board. 1. The cannabis control board or "board" is created and shall consist of a chairperson with one vote, and four other voting board members, all of whom shall be citizens and residents of this state.

2. The governor shall appoint all members of the board, and shall designate one member to serve as chairperson. All members of the board shall serve for a term of three years and shall continue to serve in office until the expiration of their terms and until their successors are appointed and have qualified. The members, other than the chairperson, shall be compensated at a rate of two hundred sixty dollars per day when performing the work of the board, together with an allowance for actual and necessary expenses incurred in the discharge of their duties. No person shall be appointed to or employed by the board if, during the period commencing three years prior to appointment or employment, such person held any direct or indirect interest in, or employment by, any corporation, association or person engaged in regulated activity within the state.

3. Prior to appointment or employment, each member, officer or employee of the board shall swear or affirm that he or she possesses no interest in any corporation or association holding a license, registration, certificate or permit issued by the board. Thereafter, no member or officer of the board shall hold any direct interest in or be employed by any applicant for or by any corporation, association or person holding a license, registration, certificate or permit issued by the board for a period of four years commencing on the date his or her membership with the board terminates. Further, no employee of the board may acquire any direct or indirect interest in, or accept employment with, any applicant for or any person holding a license, registration, certificate or permit issued by the board for a period of two years commencing at the termination of employment with the board. The board may, by resolution adopted by unanimous vote at a properly noticed public meeting, waive for good cause the pre-employment restrictions enumerated in this subdivision for a prospective employee whose duties and responsibilities are not policy-making. Such adopted resolution shall state the reasons for

1 waiving the pre-employment conditions for the prospective employee,
2 including a finding that there were no other qualified candidates with
3 the desired experience for the specified position.

4 4. Any member of the board may be removed by the governor for cause
5 after notice and an opportunity to be heard.

6 5. In the event of a vacancy caused by the death, resignation, removal
7 or disability of any board member, the vacancy shall be filled in the
8 same manner as the original appointment; provided that in such instance
9 the governor may appoint a member of the board to serve as chairperson
10 for the remainder of their term.

11 6. A majority of the board members of the authority shall constitute a
12 quorum for the purpose of conducting business, and a majority vote of
13 those present shall be required for action.

14 7. The board shall meet as frequently as its business may require, and
15 at least four times in each year. The board may enact and from time to
16 time amend by-laws in relation to its meetings and the transactions of
17 its business.

18 § 9. Functions, powers and duties of the cannabis control board. The
19 cannabis control board shall have such powers and duties as are set
20 forth in this chapter and shall:

21 1. approve the office's social and economic equity plan pursuant to
22 section eighty-four of this chapter;

23 2. approve the type and number of available licenses issued by the
24 office;

25 3. approve the opening of new license application periods and when new
26 or additional licenses are made available;

27 4. approve the creation of any new type of license;

28 5. approve any price quotas or price controls set by the executive
29 director as provided by this chapter;

30 6. at the request of the executive director, appoint advisory groups
31 or committees necessary to provide assistance to the office to carry out
32 the policy of the state and purpose of this chapter;

33 7. when an administrative decision is appealed by an applicant, regis-
34 tered organization, licensee or permittee, issue a final determination
35 of the office; and

36 8. promulgate any rules and regulations necessary to effectuate this
37 chapter.

38 § 10. Executive director. The office shall exercise its authority,
39 through an executive director. The executive director shall receive an
40 annual salary within the amounts appropriated therefor.

41 § 11. Functions, powers and duties of the executive director. The
42 office of cannabis management, by and through its executive director,
43 shall have the following powers and duties:

44 1. To issue or refuse to issue any registration, license or permit
45 provided for in this chapter.

46 2. To limit the number, scope, and/or availability of registrations,
47 licenses and permits of each class to be issued within the state or any
48 political subdivision thereof, and in connection therewith to prohibit
49 the acceptance of applications for such classes which have been so
50 limited.

51 3. To revoke, cancel or suspend for cause any registration, license,
52 or permit issued under this chapter and/or to impose a civil penalty for
53 cause against any holder of a registration, license, or permit issued
54 pursuant to this chapter or any person engaged in activities without a
55 license or permit for which a license or permit is required by this
56 chapter. Any civil penalty so imposed shall be in addition to and sepa-

1 rate and apart from the terms and provisions of the bond required pursu-
2 ant to section thirty-five of this chapter.

3 4. To fix by rule the standards and requirements for the cultivation,
4 processing, packaging, marketing, and sale of medical cannabis, adult-
5 use cannabis and cannabinoid hemp, including but not limited to, the
6 ability to regulate potency, excipients, and the types and forms of
7 products which may be manufactured and/or processed, in order to ensure
8 the health and safety of the public and the use of proper ingredients
9 and methods in the manufacture of all cannabis and cannabinoid hemp to
10 be sold or consumed in the state and to ensure that products are not
11 packaged, marketed, or otherwise trafficked in a way which targets
12 minors or promotes increased use or cannabis use disorders.

13 5. To limit or prohibit, at any time of public emergency and without
14 previous notice or advertisement, the cultivation, processing, distrib-
15 ution or sale of any or all adult-use cannabis products, medical canna-
16 bis or cannabinoid hemp, for and during the period of such emergency.

17 6. To inspect or provide for the inspection at any time of any prem-
18 ises where adult-use cannabis, medical cannabis or cannabinoid hemp is
19 cultivated, processed, stored, distributed or sold including but not
20 limited to compelling the production and review of all relevant business
21 records and financial statements and corporate documents.

22 7. To prescribe forms of applications, criteria of review and method
23 of selection or issuance for registrations, licenses and permits under
24 this chapter and of all reports deemed necessary by the office.

25 8. Intentionally omitted.

26 9. To exercise the powers and perform the duties in relation to the
27 administration of the office as are necessary but not specifically vest-
28 ed by this chapter, including but not limited to budgetary and fiscal
29 matters.

30 10. To develop and establish minimum criteria for certifying employees
31 to work in the cannabis industry, which may include the establishment of
32 a cannabis workers certification program.

33 11. To enter into contracts, memoranda of understanding, and agree-
34 ments as deemed appropriate by the executive director to effectuate the
35 policy and purpose of this chapter.

36 12. To establish and implement a social and economic equity plan,
37 subject to approval of the board, to ensure access to, and participation
38 in, the cannabis industry by social equity and economic empowerment
39 applicants as prescribed in section eighty-four of this chapter.

40 13. If the executive director finds that public health, safety, or
41 welfare imperatively requires emergency action, and incorporates a find-
42 ing to that effect in an order, summary suspension of a license or
43 administrative hold of products and a product recall may be ordered,
44 effective on the date specified in such order or upon service of a
45 certified copy of such order on the licensee, whichever shall be later,
46 pending proceedings for revocation or other action. These proceedings
47 shall be promptly instituted and determined. In addition, the executive
48 director may order the administrative seizure of product, issue a stop
49 order, or take any other action necessary to effectuate and enforce the
50 policy and purpose of this chapter.

51 14. To issue guidance and industry advisories.

52 15. To recommend that the state enter into tribal-state compacts with
53 the New York state Indian nations and tribes, as defined by section two
54 of the Indian law, authorizing such Indian nations or tribes to acquire,
55 possess, manufacture, sell, deliver, transport, distribute or dispense
56 adult-use cannabis and/or medical cannabis.

1 16. To coordinate across state agencies and departments in order to
2 research and study any changes in cannabis use and the impact that
3 cannabis use and the regulated cannabis industry may have on access to
4 cannabis products, public health, and public safety.

5 § 12. Rulemaking authority. 1. The board shall perform such acts,
6 prescribe such forms and promulgate such rules, regulations and orders
7 as it may deem necessary or proper to fully effectuate the provisions of
8 this chapter, in accordance with the state administrative procedure act.

9 2. The board shall promulgate any and all necessary rules and regu-
10 lations governing the production, processing, transportation, distrib-
11 ution, marketing, advertising and sale of medical cannabis, adult-use
12 cannabis and cannabinoid hemp, the registration of organizations author-
13 ized to traffic in medical cannabis, the licensing and/or permitting of
14 adult-use cannabis cultivators, processors, cooperatives, distributors,
15 and retail dispensaries, and the licensing of cannabinoid hemp process-
16 ors and retailers, including but not limited to:

17 (a) prescribing forms and establishing application, registration,
18 reinstatement, and renewal fees;

19 (b) the qualifications and selection criteria for registration,
20 licensing, or permitting;

21 (c) the books and records to be created and maintained by registered
22 organizations, licensees, and permittees, including the reports to be
23 made thereon to the office, and inspection of any and all books and
24 records maintained by any registered organization, licensee, or permit-
25 tee and on the premise of any registered organization, licensee, or
26 permittee;

27 (d) methods of producing, processing, and packaging adult-use canna-
28 bis, medical cannabis, cannabis-infused products, and cannabinoid hemp;
29 conditions of sanitation, standards of ingredients, quality, and identi-
30 ty of adult-use cannabis and medical cannabis products cultivated, proc-
31 essed, packaged, or sold by registered organizations and licensees, and
32 standards for the devices used to consume adult-use cannabis, medical
33 cannabis and cannabinoid hemp;

34 (e) security requirements for adult-use cannabis retail dispensaries
35 and premises where cannabis products or medical cannabis are cultivated,
36 produced, processed, or stored, and safety protocols for registered
37 organizations, licensees and their employees;

38 (f) hearing procedures and additional causes for cancellation, revoca-
39 tion, and/or civil penalties against any person registered, licensed, or
40 permitted by the authority; and

41 (g) the circumstances under and manner and process by which an appli-
42 cant, registered organization, licensee, or permittee, may apply to
43 change or alter its previously submitted or approved owners, managers,
44 members, directors, financiers, or interest holders.

45 3. The board shall promulgate rules and regulations to:

46 (a) prevent the distribution of adult-use cannabis to persons under
47 twenty-one years of age including the marketing, packaging and branding
48 of adult-use cannabis;

49 (b) prevent the revenue from the sale of cannabis from going to crimi-
50 nal enterprises, gangs, and cartels;

51 (c) prevent the diversion of adult-use cannabis and medical cannabis
52 from this state to other states;

53 (d) prevent cannabis activity that is legal under state law from being
54 used as a cover or pretext for the trafficking of other illegal drugs or
55 other illegal activity;

1 (e) prevent violence and the use of firearms in the cultivation and
2 distribution of cannabis;

3 (f) prevent drugged driving and the exacerbation of other adverse
4 public health consequences associated with the use of cannabis;

5 (g) prevent the growing of cannabis on public lands and the attendant
6 public safety and environmental dangers posed by cannabis production on
7 public lands;

8 (h) prevent the possession and use of adult-use cannabis and medical
9 cannabis on federal property;

10 (i) regulate and restrict the use of cannabis and prohibit the traf-
11 ficking of dangerous cannabis products in order to reduce the rate of
12 cannabis abuse, cannabis dependency, cannabis use disorders, and other
13 adverse public health and safety consequences of cannabis use;

14 (j) educate the public and at-risk populations about responsible
15 cannabis use and the potential dangers of cannabis use;

16 (k) prevent predatory marketing and advertising practices targeted
17 toward at-risk populations such as minors, pregnant or breastfeeding
18 women, and demographics which disproportionately engage in higher rates
19 of cannabis use and display higher rates of cannabis use disorders;

20 (l) notwithstanding subdivision two of this section, revoke or refuse
21 to issue any class or type of license, permit, or registration if he or
22 she determines that failing to do so would conflict with any federal law
23 or guidance pertaining to regulatory, enforcement and other systems that
24 states, businesses, or other institutions may implement to mitigate the
25 potential for federal intervention or enforcement against legalized
26 adult-use cannabis and medical cannabis programs or businesses;

27 (m) notwithstanding any other section of state law, adopt rules and
28 regulations based on federal guidance provided those rules and regu-
29 lations are designed to comply with federal guidance and mitigate feder-
30 al enforcement against the registrations, licenses, or permits issued
31 under this chapter, or the cannabis industry as a whole. This may
32 include regulations which permit the sharing of licensee, registrant, or
33 permit-holder information with designated banking or financial insti-
34 tutions; and

35 (n) establish application, licensing, and permitting processes which
36 ensure all material owners and interest holders are disclosed and that
37 officials or other individuals with control over the approval of an
38 application, permit, or license do not themselves have any interest in
39 an application, license, or permit.

40 4. The board, in consultation with the department of agriculture and
41 markets and the department of environmental conservation, shall promul-
42 gate necessary rules and regulations governing the safe production of
43 adult-use cannabis and medical cannabis, including but not limited to
44 environmental and energy standards and restrictions on the use of pesti-
45 cides.

46 § 13. Deputies; employees. 1. The executive director shall appoint a
47 deputy director for health and safety who shall be a duly licensed
48 physician within the state and who shall oversee the medical cannabis
49 program and all clinical aspects of the office. The executive director
50 shall also appoint a deputy director for social and economic equity who
51 shall oversee the social and economic equity plan. The executive direc-
52 tor may appoint such other deputies as he or she deems necessary to
53 fulfill the responsibilities of the office.

54 2. The executive director may appoint and remove from time to time, in
55 accordance with law and any applicable rules of the state civil service
56 commission, such additional employees, under such titles as the execu-

1 tive director may assign, as the executive director may deem necessary
2 for the efficient administration of the office. They shall perform such
3 duties as the executive director shall assign to them. The compensation
4 of such employees shall be within the amounts appropriated therefor.

5 3. Investigators employed by the office shall be deemed to be peace
6 officers for the purpose of enforcing the provisions of this chapter or
7 judgments or orders obtained for violation thereof, with all the powers
8 set forth in section 2.20 of the criminal procedure law.

9 § 14. Disposition of moneys received for license fees. The office
10 shall establish a schedule of application, licensing, and renewal fees,
11 based upon the cost of enforcing this chapter which may vary based on
12 the nature, size, class, or scope of the cannabis business being
13 licensed or the classification of the applicant, as follows:

14 1. The office shall charge each registered organization, licensee and
15 permittee a registration, licensure or permit fee, and renewal fee, as
16 applicable. The fees may vary depending upon the nature, size, class or
17 scope of the different registration, licensure and permit activities, or
18 the classification of the applicant.

19 2. The total fees assessed pursuant to this chapter may be set at an
20 amount that will generate sufficient total revenue to fully cover the
21 total costs of administering this chapter.

22 3. The office shall deposit all fees collected in the New York state
23 cannabis revenue fund established pursuant to section ninety-nine-hh of
24 the state finance law.

25 § 15. Violations of cannabis laws or regulations; penalties and
26 injunctions. 1. A person who willfully violates any provision of this
27 chapter, or any regulation lawfully made or established by any public
28 officer under authority of this chapter, the punishment for violating
29 which is not otherwise prescribed by this chapter or any other law, is
30 punishable by a fine not exceeding five thousand dollars per violation,
31 per day.

32 2. Any person who violates, disobeys or disregards any term or
33 provision of this chapter or of any lawful notice, order or regulation
34 pursuant thereto for which a civil penalty is not otherwise expressly
35 prescribed by law, shall be liable to the people of the state for a
36 civil penalty of not to exceed five thousand dollars per violation, per
37 day.

38 3. The penalty provided for in subdivision one of this section may be
39 recovered by an action brought by the executive director in any court of
40 competent jurisdiction.

41 4. Nothing in this section shall be construed to alter or repeal any
42 existing provision of law declaring such violations to be misdemeanors
43 or felonies or prescribing the penalty therefor.

44 5. Such civil penalty may be released or compromised by the executive
45 director before the matter has been referred to the attorney general,
46 and where such matter has been referred to the attorney general, any
47 such penalty may be released or compromised and any action commenced to
48 recover the same may be settled and discontinued by the attorney general
49 with the consent of the executive director.

50 6. It shall be the duty of the attorney general upon the request of
51 the executive director to bring an action for an injunction against any
52 person who violates, disobeys or disregards any term or provision of
53 this chapter or of any lawful notice, order or regulation pursuant ther-
54 eto; provided, however, that the executive director shall furnish the
55 attorney general with such material, evidentiary matter or proof as may

1 be requested by the attorney general for the prosecution of such an
2 action.

3 7. It is the purpose of this section to provide additional and cumula-
4 tive remedies, and nothing herein contained shall abridge or alter
5 rights of action or remedies now or hereafter existing, nor shall any
6 provision of this section, nor any action done by virtue of this
7 section, be construed as estopping the state, persons or municipalities
8 in the exercising of their respective rights.

9 § 16. Formal hearings; notice and procedure. 1. The board, or any
10 person designated by the board for this purpose, may issue subpoenas and
11 administer oaths in connection with any hearing or investigation under
12 or pursuant to this chapter, and it shall be the duty of the board and
13 any persons designated by the board for such purpose to issue subpoenas
14 at the request of and upon behalf of the respondent.

15 2. The board and those designated by the board shall not be bound by
16 the laws of evidence in the conduct of hearing proceedings, but the
17 determination shall be founded upon substantial evidence to sustain it.

18 3. Notice of hearing shall be served at least fifteen days prior to
19 the date of the hearing, provided that, whenever because of danger to
20 the public health, safety or welfare it appears prejudicial to the
21 interests of the people of the state to delay action for fifteen days,
22 the executive director may serve the respondent with an order requiring
23 certain action or the cessation of certain activities immediately or
24 within a specified period of less than fifteen days.

25 4. Service of notice of hearing or order shall be made by personal
26 service or by registered or certified mail. Where service, whether by
27 personal service or by registered or certified mail, is made upon an
28 incompetent, partnership, or corporation, it shall be made upon the
29 person or persons designated to receive personal service by article
30 three of the civil practice law and rules.

31 5. At a hearing, the respondent may appear personally, shall have the
32 right of counsel, and may cross-examine witnesses against him or her and
33 produce evidence and witnesses in his or her behalf.

34 6. Following a hearing, the board or its designee may make appropriate
35 determinations and issue a final order in accordance therewith.

36 7. The board may adopt, amend and repeal administrative rules and
37 regulations governing the procedures to be followed with respect to
38 hearings, such rules to be consistent with the policy and purpose of
39 this chapter and the effective and fair enforcement of its provisions.

40 8. The provisions of this section shall be applicable to all hearings
41 held pursuant to this chapter, except where other provisions of this
42 chapter applicable thereto are inconsistent therewith, in which event
43 such other provisions shall apply.

44 § 17. Ethics, transparency and accountability. No member of the
45 office or any officer, deputy, assistant, inspector or employee thereof
46 shall have any interest, direct or indirect, either proprietary or by
47 means of any loan, mortgage or lien, or in any other manner, in or on
48 any premises where cannabis, medical cannabis or hemp is cultivated,
49 processed, distributed or sold; nor shall he or she have any interest,
50 direct or indirect, in any business wholly or partially devoted to the
51 cultivation, processing, distribution, sale, transportation, marketing,
52 or storage of adult-use cannabis, medical cannabis or cannabinoid hemp,
53 or own any stock in any corporation which has any interest, proprietary
54 or otherwise, direct or indirect, in any premises where adult-use canna-
55 bis, medical cannabis or cannabinoid hemp is cultivated, processed,
56 distributed or sold, or in any business wholly or partially devoted to

1 the cultivation, processing, distribution, sale, transportation or stor-
2 age of adult-use cannabis, medical cannabis or cannabinoid hemp, or
3 receive any commission or profit whatsoever, direct or indirect, from
4 any person applying for, receiving, managing or operating any license or
5 permit provided for in this chapter, or hold any other elected or
6 appointed public office in the state or in any political subdivision to
7 which a registered organization, licensee, permittee or applicant would
8 appear. Anyone who violates any of the provisions of this section shall
9 be removed or shall divest him or herself of such direct or indirect
10 interests.

11 § 18. Public health campaign. The office, in consultation with the
12 commissioners of the department of health, office of alcoholism and
13 substance abuse services and office of mental health, shall develop and
14 implement a comprehensive public health monitoring, surveillance and
15 education campaign regarding the legalization of adult-use cannabis and
16 the impact of cannabis use on public health and safety.

17 § 19. Traffic safety oral fluid or other roadside detection method
18 pilot program. The office, in consultation with the commissioner of the
19 department of motor vehicles and the superintendent of the state police,
20 shall develop and implement a workgroup together with other states to
21 outline goals and standard operating procedures for a statewide or
22 regional oral fluid or other roadside detection pilot program. The work-
23 group may include, but not be limited to, representatives from district
24 attorney offices, local and county police departments, and other rele-
25 vant public safety experts.

26 § 20. Establish uniform policies and best practices. To engage in
27 activities with other states, territories, or jurisdictions in order to
28 coordinate and establish, uniform policies and best practices in canna-
29 bis regulation. These activities shall prioritize coordination with
30 neighboring and regional states, and may include, but not be limited to
31 establish working groups related to laboratory testing, products safety,
32 taxation, road safety, and any other issues identified by the executive
33 director. The executive director may enter into any contracts, or memo-
34 randa of understanding necessary to effectuate this provision.

35 ARTICLE 3

36 MEDICAL CANNABIS

37 Section 30. Certification of patients.

38 31. Lawful medical use.

39 32. Registry identification cards.

40 33. Registration as a designated caregiver facility.

41 34. Registered organizations.

42 35. Registering of registered organizations.

43 36. Intentionally omitted.

44 37. Reports of registered organizations.

45 38. Evaluation; research programs; report by office.

46 39. Cannabis research license.

47 40. Registered organizations and adult-use cannabis.

48 41. Home cultivation of medical cannabis.

49 42. Relation to other laws.

50 43. Protections for the medical use of cannabis.

51 44. Regulations.

52 45. Suspend; terminate.

53 46. Pricing.

54 47. Severability.

1 § 30. Certification of patients. 1. A patient certification may only
2 be issued if:

3 (a) the patient has a serious condition, which shall be specified in
4 the patient's health care record;

5 (b) the practitioner by training or experience is qualified to treat
6 the serious condition;

7 (c) the patient is under the practitioner's continuing care for the
8 serious condition; and

9 (d) in the practitioner's professional opinion and review of past
10 treatments, the patient is likely to receive therapeutic or palliative
11 benefit from the primary or adjunctive treatment with medical use of
12 cannabis for the serious condition.

13 2. The certification shall include: (a) the name, date of birth and
14 address of the patient; (b) a statement that the patient has a serious
15 condition and the patient is under the practitioner's care for the seri-
16 ous condition; (c) a statement attesting that all requirements of subdi-
17 vision one of this section have been satisfied; (d) the date; and (e)
18 the name, address, telephone number, and the signature of the certifying
19 practitioner. The executive director may require by regulation that the
20 certification shall be on a form provided by the office. The practition-
21 er may state in the certification that, in the practitioner's profes-
22 sional opinion, the patient would benefit from medical cannabis only
23 until a specified date. The practitioner may state in the certification
24 that, in the practitioner's professional opinion, the patient is termi-
25 nally ill and that the certification shall not expire until the patient
26 dies.

27 3. In making a certification, the practitioner may consider any
28 approved form of medical cannabis the patient should consume, including
29 the method of consumption and any particular strain, variety, and quan-
30 tity or percentage of cannabis or particular active ingredient, and
31 appropriate dosage. The practitioner may state in the certification any
32 recommendation or limitation the practitioner makes, in his or her
33 professional opinion, concerning the appropriate form or forms of
34 medical cannabis and dosage.

35 4. Every practitioner shall consult the prescription monitoring
36 program registry prior to making or issuing a certification, for the
37 purpose of reviewing a patient's controlled substance history. For
38 purposes of this section, a practitioner may authorize a designee to
39 consult the prescription monitoring program registry on his or her
40 behalf, provided that such designation is in accordance with section
41 thirty-three hundred forty-three-a of the public health law.

42 5. The practitioner shall give the certification to the certified
43 patient, and place a copy in the patient's health care record.

44 6. No practitioner shall issue a certification under this section for
45 himself or herself.

46 7. A registry identification card based on a certification shall
47 expire one year after the date the certification is signed by the prac-
48 titioner.

49 8. (a) If the practitioner states in the certification that, in the
50 practitioner's professional opinion, the patient would benefit from
51 medical cannabis only until a specified earlier date, then the registry
52 identification card shall expire on that date; (b) if the practitioner
53 states in the certification that in the practitioner's professional
54 opinion the patient is terminally ill and that the certification shall
55 not expire until the patient dies, then the registry identification card
56 shall state that the patient is terminally ill and that the registration

1 card shall not expire until the patient dies; (c) if the practitioner
2 re-issues the certification to terminate the certification on an earlier
3 date, then the registry identification card shall expire on that date
4 and shall be promptly destroyed by the certified patient; (d) if the
5 certification so provides, the registry identification card shall state
6 any recommendation or limitation by the practitioner as to the form or
7 forms of medical cannabis or dosage for the certified patient; and (e)
8 the executive director shall make regulations to implement this subdivi-
9 sion.

10 9. A practitioner who offers patient certification shall not have any
11 business relationship with, or own any stock in any corporation which
12 has any interest, proprietary or otherwise, direct or indirect, in any
13 registered organization, or other business or premises where medical
14 cannabis is cultivated, processed, distributed or sold. This provision
15 shall not be construed to prohibit a practitioner who offers patient
16 certification from providing their medical expertise to, or engaging in
17 medical cannabis research with, a registered organization or a licensee
18 that traffics in medical cannabis provided that the practitioner is not
19 compensated for or offered any consideration for these educational or
20 research activities.

21 § 31. Lawful medical use. The possession, acquisition, use, delivery,
22 transfer, transportation, or administration of medical cannabis by a
23 certified patient, designated caregiver or designated caregiver facili-
24 ty, for certified medical use, shall be lawful under this article
25 provided that:

26 (a) the cannabis that may be possessed by a certified patient shall
27 not exceed quantities determined by the executive director in regu-
28 lation;

29 (b) the cannabis that may be possessed by designated caregivers does
30 not exceed the quantities determined by the executive director under
31 paragraph (a) of this subdivision for any certified patient for whom the
32 caregiver is issued a valid registry identification card;

33 (c) the cannabis that may be possessed by designated caregiver facili-
34 ties does not exceed the quantities determined by the executive director
35 under paragraph (a) of this subdivision for each certified patient under
36 the care or treatment of the facility;

37 (d) the form or forms of medical cannabis that may be possessed by the
38 certified patient, designated caregiver or designated caregiver facility
39 pursuant to a certification shall be in compliance with any recommenda-
40 tion or limitation by the practitioner as to the form or forms of
41 medical cannabis or dosage for the certified patient in the certif-
42 ication and consistent with any guidance, limitation, and regulation
43 issued by the executive director; and

44 (e) the medical cannabis shall be kept in the original package in
45 which it was dispensed under this article, except for the portion
46 removed for immediate consumption for certified medical use by the
47 certified patient.

48 § 32. Registry identification cards. 1. Upon approval of the certif-
49 ication, the office shall issue registry identification cards for certi-
50 fied patients and designated caregivers. A registry identification card
51 shall expire as provided in this article or as otherwise provided in
52 this section. The office shall begin issuing registry identification
53 cards as soon as practicable after the certifications required by this
54 chapter are granted. The office may specify a form for a registry appli-
55 cation, in which case the office shall provide the form on request,

1 reproductions of the form may be used, and the form shall be available
2 for downloading from the office's website.

3 2. To obtain, amend or renew a registry identification card, a certi-
4 fied patient or designated caregiver shall file a registry application
5 with the office, unless otherwise exempted by the executive director in
6 regulation. The registry application or renewal application shall
7 include such information as prescribed by the office which shall include
8 but not be limited to:

9 (a) in the case of a certified patient:

10 (i) the patient's certification, a new written certification shall be
11 provided with a renewal application if required by the office;

12 (ii) the name, address, and date of birth of the patient;

13 (iii) the date of the certification;

14 (iv) if the patient has a registry identification card based on a
15 current valid certification, the registry identification number and
16 expiration date of that registry identification card;

17 (v) the specified date until which the patient would benefit from
18 medical cannabis, if the certification states such a date;

19 (vi) the name, address, and telephone number of the certifying practi-
20 tioner;

21 (vii) any recommendation or limitation by the practitioner as to the
22 form or forms of medical cannabis or dosage for the certified patient;

23 (viii) if the certified patient applies to designate a designated
24 caregiver, the name, address, and date of birth of the designated care-
25 giver, and other individual identifying information required by the
26 office; and

27 (ix) other individual identifying information required by the office;

28 (b) in the case of a designated caregiver:

29 (i) the name, address, and date of birth of the designated caregiver;

30 (ii) if the designated caregiver has a registry identification card,
31 the registry identification number and expiration date of that registry
32 identification card; and

33 (iii) other individual identifying information required by the office;

34 (c) a statement that a false statement made in the application is
35 punishable under section 210.45 of the penal law;

36 (d) the date of the application and the signature of the certified
37 patient or designated caregiver, as the case may be;

38 (e) any other requirements determined by the executive director.

39 3. Where a certified patient is under the age of eighteen or otherwise
40 incapable of consent:

41 (a) The application for a registry identification card shall be made
42 by an appropriate person over eighteen years of age. The application
43 shall state facts demonstrating that the person is appropriate.

44 (b) The designated caregiver shall be: (i) a parent or legal guardian
45 of the certified patient; (ii) a person designated by a parent or legal
46 guardian; (iii) a designated caregiver facility; or (iv) an appropriate
47 person approved by the office upon a sufficient showing that no parent
48 or legal guardian is appropriate or available.

49 4. No person may be a designated caregiver if the person is under
50 twenty-one years of age unless a sufficient showing is made to the
51 office that the person should be permitted to serve as a designated
52 caregiver. The requirements for such a showing shall be determined by
53 the executive director.

54 5. No person may be a designated caregiver for more than one certified
55 patient at one time, unless approved by the office. The office may allow
56 a designated caregiver to serve more than one patient in cases where

1 additional designating patients are immediate family members, in the
2 immediate and continuous care of the caregiver, or satisfy other eligi-
3 bility requirements determined by the executive director in regulation.

4 6. If a certified patient wishes to change or terminate his or her
5 designated caregiver, for whatever reason, the certified patient shall
6 notify the office as soon as practicable. The office shall issue a
7 notification to the designated caregiver that their registration card is
8 invalid and must be promptly destroyed. The newly designated caregiver
9 must comply with all requirements set forth in this section.

10 7. If the certification so provides, the registry identification card
11 shall contain any recommendation or limitation by the practitioner as to
12 the form or forms of medical cannabis or dosage for the certified
13 patient.

14 8. The office shall issue separate registry identification cards for
15 certified patients and designated caregivers as soon as reasonably prac-
16 ticable after receiving and approving a complete application under this
17 section, unless it determines that the application is incomplete, factu-
18 ally inaccurate, or fails to satisfy any applicable regulation, in which
19 case it shall promptly notify the applicant.

20 9. If the application of a certified patient designates an individual
21 as a designated caregiver who is not authorized to be a designated care-
22 giver, that portion of the application shall be denied by the office but
23 that shall not affect the approval of the balance of the application.

24 10. A registry identification card shall:

25 (a) contain the name of the certified patient or the designated care-
26 giver as the case may be;

27 (b) contain the date of issuance and expiration date, as applicable,
28 of the registry identification card;

29 (c) contain a registry identification number for the certified patient
30 or designated caregiver, as the case may be and a registry identifica-
31 tion number;

32 (d) contain a photograph of the individual to whom the registry iden-
33 tification card is being issued, which shall be obtained by the office
34 in a manner specified by the executive director in regulations;
35 provided, however, that if the office requires certified patients to
36 submit photographs for this purpose, there shall be a reasonable accom-
37 modation of certified patients who are confined to their homes due to
38 their medical conditions and may therefore have difficulty procuring
39 photographs;

40 (e) be a secure document as determined by the office;

41 (f) plainly state any recommendation or limitation by the practitioner
42 as to the form or forms of medical cannabis or dosage for the certified
43 patient; and

44 (g) contain any other requirements determined by the executive direc-
45 tor.

46 11. A certified patient or designated caregiver who has been issued a
47 registry identification card shall notify the office of any change in
48 his or her name or address or, with respect to the patient, if he or she
49 ceases to have the serious condition noted on the certification within
50 ten days of such change. The certified patient's or designated
51 caregiver's registry identification card shall be deemed invalid and
52 shall be promptly destroyed.

53 12. If a certified patient or designated caregiver loses his or her
54 registry identification card, he or she shall notify the office within
55 ten days of losing the card. The office shall issue a new registry iden-
56 tification card as soon as practicable, which may contain a new registry

1 identification number, to the certified patient or designated caregiver,
2 as the case may be.

3 13. The office shall maintain a confidential list of the persons to
4 whom it has issued registry identification cards. Individual identifying
5 information obtained by the office under this article shall be confiden-
6 tial and exempt from disclosure under article six of the public officers
7 law. Notwithstanding this subdivision, the office may notify any appro-
8 priate law enforcement agency of information relating to any violation
9 or suspected violation of this article.

10 14. The office shall verify to law enforcement personnel in an appro-
11 priate case whether a registry identification card is valid.

12 15. If a certified patient or designated caregiver willfully violates
13 any provision of this article or regulations promulgated hereunder as
14 determined by the executive director, his or her certification and
15 registry identification card may be suspended or revoked. This is in
16 addition to any other penalty that may apply.

17 § 33. Registration as a designated caregiver facility. 1. To obtain,
18 amend or renew a registration as a designated caregiver facility, the
19 facility shall file a registry application with the office. The registry
20 application or renewal application shall include:

- 21 (a) the facility's full name and address;
- 22 (b) operating certificate or license number where appropriate;
- 23 (c) name, title, and signature of an authorized facility represen-
24 tative;
- 25 (d) a statement that the facility agrees to secure and ensure proper
26 handling of all medical cannabis products;
- 27 (e) an acknowledgement that a false statement in the application is
28 punishable under section 210.45 of the penal law; and
- 29 (f) any other information that may be required by the executive direc-
30 tor.

31 2. Prior to issuing or renewing a designated caregiver facility regis-
32 tration, the office may verify the information submitted by the appli-
33 cant. The applicant shall provide, at the office's request, such infor-
34 mation and documentation, including any consents or authorizations that
35 may be necessary for the office to verify the information.

36 3. The office shall approve, deny or reject an initial or renewal
37 application. If the application is approved within the 30-day period,
38 the office shall issue a registration as soon as is reasonably practica-
39 ble.

40 4. Registrations issued under this section shall remain valid for two
41 years from the date of issuance.

42 § 34. Registered organizations. 1. A registered organization shall be
43 a for-profit business entity or not-for-profit corporation organized for
44 the purpose of acquiring, possessing, manufacturing, selling, deliver-
45 ing, transporting, distributing or dispensing cannabis for certified
46 medical use, in accordance with minimum operating and recordkeeping
47 requirements determined by the executive director in regulation.

48 2. The acquiring, possession, manufacture, testing, sale, delivery,
49 transporting, distributing or dispensing of medical cannabis by a regis-
50 tered organization under this article in accordance with its registra-
51 tion under this article or a renewal thereof shall be lawful under this
52 chapter.

53 3. Each registered organization shall contract with an independent
54 laboratory permitted by the office to test the medical cannabis produced
55 by the registered organization. The executive director, in consultation
56 with the commissioner of health, shall approve the laboratory used by

1 the registered organization, including but not limited to sampling and
2 testing protocols and standards used by the laboratory, and may require
3 that the registered organization use a particular testing laboratory.

4 4. (a) A registered organization may lawfully, in good faith, sell,
5 deliver, distribute or dispense medical cannabis to a certified patient
6 or designated caregiver upon presentation to the registered organization
7 of valid identification for that certified patient or designated care-
8 giver. When presented with the registry identification card, the regis-
9 tered organization shall provide to the certified patient or designated
10 caregiver a receipt, which shall state: the name, address, and registry
11 identification number of the registered organization; the name and
12 registry identification number of the certified patient and the desig-
13 nated caregiver, if any; the date the cannabis was sold; any recommenda-
14 tion or limitation by the practitioner as to the form or forms of
15 medical cannabis or dosage for the certified patient; and the form and
16 the quantity of medical cannabis sold. The registered organization shall
17 retain a copy of the registry identification card and the receipt for
18 six years, and shall make such records available to the office upon
19 demand.

20 (b) The proprietor of a registered organization shall file or cause to
21 be filed any receipt and certification information with the office by
22 electronic means on a real-time basis as the executive director may
23 require. When filing receipt and certification information electron-
24 ically pursuant to this paragraph, the proprietor of the registered
25 organization shall dispose of any electronically recorded prescription
26 information in such manner as the executive director shall by regulation
27 require.

28 5. (a) No registered organization may sell, deliver, distribute or
29 dispense to any certified patient or designated caregiver a quantity of
30 medical cannabis larger than that individual would be allowed to possess
31 as set out in regulation by the executive director.

32 (b) When dispensing medical cannabis to a certified patient or desig-
33 nated caregiver, the registered organization: (i) shall not dispense an
34 amount greater than an amount established by the executive director in
35 regulation; and (ii) shall verify the information in subparagraph (i) of
36 this paragraph by consulting the prescription monitoring program regis-
37 try under this article.

38 (c) Medical cannabis dispensed to a certified patient or designated
39 caregiver by a registered organization shall conform to any recommenda-
40 tion or limitation by the practitioner as to the form or forms of
41 medical cannabis or dosage for the certified patient, and any medical
42 cannabis product or form limitations or restrictions determined by the
43 executive director in regulation.

44 6. When a registered organization sells, delivers, distributes or
45 dispenses medical cannabis to a certified patient or designated caregiv-
46 er, it shall provide to that individual a safety insert, which may be
47 developed by the registered organization and shall include, but not be
48 limited to, information on:

- 49 (a) methods for administering medical cannabis in individual doses,
- 50 (b) any potential dangers stemming from the use of medical cannabis,
- 51 (c) how to recognize what may be problematic usage of medical cannabis
- 52 and obtain appropriate services or treatment for problematic usage, and
- 53 (d) other information as determined by the executive director.

54 7. Registered organizations shall not be managed by or employ anyone
55 who has been convicted of any felony other than for the sale or
56 possession of drugs, narcotics, or controlled substances, and provided

1 that this subdivision only applies to (a) managers or employees who come
2 into contact with or handle medical cannabis, and (b) a conviction less
3 than ten years, not counting time spent in incarceration, prior to being
4 employed, for which the person has not received a certificate of relief
5 from disabilities, a certificate of good conduct under article twenty-
6 three of the correction law, or an executive pardon.

7 8. Manufacturing of medical cannabis by a registered organization
8 shall only be done in an indoor, enclosed, secure facility located in
9 New York state, which may include a greenhouse. The executive director
10 shall promulgate regulations establishing requirements for such facili-
11 ties.

12 9. Dispensing of medical cannabis by a registered organization shall
13 only be done in an indoor, enclosed, secure facility located in New York
14 state, which may include a greenhouse. The executive director shall
15 promulgate regulations establishing requirements for such facilities.

16 10. A registered organization shall determine the quality, safety, and
17 clinical strength of medical cannabis manufactured or dispensed by the
18 registered organization, and shall provide documentation of that quali-
19 ty, safety and clinical strength to the office and to any person or
20 entity to which the medical cannabis is sold or dispensed.

21 11. A registered organization shall be deemed to be a "health care
22 provider" for the purposes of article two-D of article two of the public
23 health law.

24 12. Medical cannabis shall be dispensed to a certified patient or
25 designated caregiver in a sealed and properly labeled package as deter-
26 mined by the executive director. The labeling shall contain: (a) the
27 information required to be included in the receipt provided to the
28 certified patient or designated caregiver by the registered organiza-
29 tion; (b) the packaging date; (c) any applicable date by which the
30 medical cannabis should be used; (d) a warning stating, "This product is
31 for medicinal use only. Women should not consume during pregnancy or
32 while breastfeeding except on the advice of the certifying health care
33 practitioner, and in the case of breastfeeding mothers, including the
34 infant's pediatrician. This product might impair the ability to drive.
35 Keep out of reach of children."; (e) the amount of individual doses
36 contained within; (f) a warning that the medical cannabis must be kept
37 in the original container in which it was dispensed; and (g) any other
38 information required by the office.

39 13. The board is authorized to make rules and regulations restricting
40 the advertising and marketing of medical cannabis.

41 14. The board is authorized to make rules and regulations regulating
42 the packaging, labeling, form and method of administration or ingestion,
43 branding and marketing of medical cannabis products to prohibit acci-
44 dental or overconsumption.

45 § 35. Registering of registered organizations. 1. Application for
46 initial registration. (a) An applicant for registration as a registered
47 organization under section thirty-four of this article shall include
48 such information prepared in such manner and detail as the executive
49 director may require, including but not limited to:

50 (i) a description of the activities in which it intends to engage as a
51 registered organization;

52 (ii) that the applicant:

53 (A) is of good moral character;

54 (B) possesses or has the right to use sufficient land, buildings, and
55 other premises, which shall be specified in the application, and equip-

1 ment to properly carry on the activity described in the application, or
2 in the alternative posts a bond of not less than two million dollars;

3 (C) is able to maintain effective security and control to prevent
4 diversion, abuse, and other illegal conduct relating to the cannabis;
5 and

6 (D) is able to comply with all applicable state laws and regulations
7 relating to the activities in which it intends to engage under the
8 registration;

9 (iii) that the applicant has entered into a labor peace agreement with
10 a bona fide labor organization that is actively engaged in representing
11 or attempting to represent the applicant's employees and the maintenance
12 of such a labor peace agreement shall be an ongoing material condition
13 of certification;

14 (iv) the applicant's status as a for-profit business entity or not-
15 for-profit corporation; and

16 (v) the application shall include the name, residence address and
17 title of each of the officers and directors and the name and residence
18 address of any person or entity that is a member of the applicant
19 including those of the applicant's parent companies, subsidiaries or
20 affiliates. Each such person, if an individual, or lawful represen-
21 tative if a legal entity, shall submit an affidavit with the application
22 setting forth:

23 (A) any position of management, interest, or ownership during the
24 preceding ten years of a ten per centum or greater interest in any other
25 cannabis business or applicant, located in or outside of this state,
26 manufacturing or distributing drugs, including indirect interest manage-
27 ment or ownership of parent companies, subsidiaries, or affiliates;

28 (B) whether such person or any such business has had a cannabis busi-
29 ness application denied or withdrawn or been convicted of a felony or
30 had a registration or license subject to administrative action, includ-
31 ing but not limited to violations, penalties, or consent agreements, or
32 had any registration or license suspended or revoked in any administra-
33 tive or judicial proceeding; and

34 (C) such other information as the executive director may reasonably
35 require to enforce the licensing restrictions of this chapter.

36 2. The applicant shall be under a continuing duty to seek approval
37 from the office prior to any material changes in ownership, management,
38 or financial or managerial interest, or prior to substantive operational
39 changes, and to disclose any change in facts or circumstances reflected
40 in the application or any newly discovered or occurring fact or circum-
41 stance which is required to be included in the application.

42 3. (a) The board may grant a registration or approve a requested
43 amendment to a registration under this section if he or she is satisfied
44 that:

45 (i) the applicant will be able to maintain effective control against
46 diversion of cannabis;

47 (ii) the applicant will be able to comply with all applicable state
48 laws and regulations;

49 (iii) the applicant and its officers are ready, willing and able to
50 properly carry on the manufacturing or distributing activity for which a
51 registration is sought;

52 (iv) the applicant possesses or has the right to use sufficient land,
53 buildings and equipment to properly carry on the activity described in
54 the application;

55 (v) it is in the public interest that such registration be granted,
56 including but not limited to:

1 (A) whether the number of registered organizations in an area will be
2 adequate or excessive to reasonably serve the area's patient need and
3 demand;

4 (B) whether the registered organization is a minority and/or woman
5 owned business enterprise or a service-disabled veteran-owned business;

6 (C) whether the registered organization provides education and
7 outreach to practitioners;

8 (D) whether the registered organization promotes the research and
9 development of medical cannabis and patient outreach; and

10 (E) the affordability medical cannabis products offered by the regis-
11 tered organization;

12 (vi) the applicant and its managing officers and interest holders are
13 of good moral character and have demonstrated a record and history of
14 compliance with cannabis laws and regulations in the jurisdictions where
15 they operate or have operated cannabis licenses and/or registrations;

16 (vii) the applicant has entered into a labor peace agreement with a
17 bona fide labor organization that is actively engaged in representing or
18 attempting to represent the applicant's employees; and the maintenance
19 of such a labor peace agreement shall be an ongoing material condition
20 of registration; and

21 (viii) the applicant satisfies any other conditions as determined by
22 the executive director.

23 (b) If the executive director is not satisfied that the applicant
24 should be issued a registration or granted approval to amend an existing
25 registration, he or she shall notify the applicant in writing of those
26 factors upon which the denial is based. Within thirty days of the
27 receipt of such notification, the applicant may submit a written request
28 to the executive director to appeal the decision.

29 (c) The fee for a registration under this section shall be an amount
30 determined by the office in regulations.

31 (d) Registrations issued under this section shall be effective only
32 for the registered organization and shall specify:

33 (i) the name and address of the registered organization;

34 (ii) which activities of a registered organization are permitted by
35 the registration;

36 (iii) the land, buildings and facilities that may be used for the
37 permitted activities of the registered organization; and

38 (iv) such other information as the executive director shall reasonably
39 provide to assure compliance with this article.

40 (e) Upon application of a registered organization, a registration may
41 be amended to allow the registered organization to relocate within the
42 state or to add or delete permitted registered organization activities
43 or facilities. The fee for such amendment request shall be determined by
44 the executive director.

45 4. A registration issued under this section shall be valid for two
46 years from the date of issue.

47 5. (a) An application for the renewal of any registration issued
48 under this section shall be filed with the office not more than six
49 months nor less than four months prior to the expiration thereof. A
50 late-filed application for the renewal of a registration may, in the
51 discretion of the executive director, be treated as an application for
52 an initial license.

53 (b) The application for renewal shall include such information
54 prepared in the manner and detail as the executive director may require,
55 including but not limited to:

1 (i) any material change in the circumstances or factors listed in
2 subdivision one of this section; and

3 (ii) every known charge or investigation, pending or concluded during
4 the period of the registration, by any governmental or administrative
5 agency with respect to:

6 (A) each incident or alleged incident involving the theft, loss, or
7 possible diversion of cannabis manufactured or distributed by the appli-
8 cant; and

9 (B) compliance by the applicant with the laws of any state or territo-
10 ry with respect to any substance listed in section thirty-three hundred
11 six of the public health law.

12 (c) An applicant for renewal shall be under a continuing duty to
13 report to the office any change in facts or circumstances reflected in
14 the application or any newly discovered or occurring fact or circum-
15 stance which is required to be included in the application, and to seek
16 approval prior to any material change in ownership interest, management
17 or operations.

18 (d) If the executive director is not satisfied that the registered
19 organization applicant is entitled to a renewal of the registration, he
20 or she shall within a reasonably practicable time as determined by the
21 executive director, serve upon the registered organization or its attor-
22 ney of record in person or by registered or certified mail an order
23 directing the registered organization to show cause why its application
24 for renewal should not be denied. The order shall specify in detail the
25 respects in which the applicant has not satisfied the executive director
26 that the registration should be renewed.

27 6. (a) The executive director shall recommend the board renew a regis-
28 tration unless he or she determines and finds that:

29 (i) the applicant is unlikely to maintain or be able to maintain
30 effective control against diversion;

31 (ii) the applicant is unlikely to comply with all state laws and regu-
32 lations applicable to the registration application and activities in
33 which it may engage under the registration;

34 (iii) it is not in the public interest to renew the registration
35 because the number of registered organizations in an area is excessive
36 to reasonably serve the area and patient need;

37 (iv) the applicant has either violated or terminated its labor peace
38 agreement; or

39 (v) the applicant has substantively violated this chapter, regulations
40 promulgated thereunder, or the laws of another jurisdiction in which
41 they operate or have operated a cannabis license or registration.

42 (b) For purposes of this section, proof that a registered organiza-
43 tion, during the period of its registration, has failed to maintain
44 effective control against diversion, violated any provision of this
45 article, or has knowingly or negligently failed to comply with applica-
46 ble state laws relating to the activities in which it engages under the
47 registration, may constitute grounds for suspension, revocation or limi-
48 tation of the registered organization's registration or as determined by
49 the executive director. The registered organization shall also be under
50 a continuing duty to report to the office and seek prior approval for
51 any material change or fact or circumstance to the information provided
52 in the registered organization's application.

53 7. The office may suspend or revoke the registration of a registered
54 organization, on grounds and using procedures under this article relat-
55 ing to a license, to the extent consistent with this article. The
56 office shall suspend or revoke the registration in the event that a

1 registered organization violates or terminates the applicable labor
2 peace agreement. Conduct in compliance with this article which may
3 violate conflicting federal law, shall not in and of itself be grounds
4 to suspend or terminate a registration.

5 8. The office shall begin issuing registrations for registered organ-
6 izations as soon as practicable after the certifications required by
7 this article are given.

8 9. The office shall register at least ten registered organizations
9 that manufacture medical cannabis with no more than four dispensing
10 sites wholly owned and operated by such registered organization. The
11 executive director shall ensure that such registered organization,
12 dispensing sites or approved delivery activities are geographically
13 distributed across the state to satisfy patient and program need. The
14 executive director may register additional registered organizations.

15 § 36. Intentionally omitted.

16 § 37. Reports of registered organizations. 1. The executive director
17 shall require each registered organization to file reports by the regis-
18 tered organization during a particular period. The executive director
19 shall determine the information to be reported and the forms, time, and
20 manner of the reporting.

21 2. The executive director shall require each registered organization
22 to adopt and maintain security, tracking, record keeping, record
23 retention and surveillance systems, relating to all medical cannabis at
24 every stage of acquiring, possession, manufacture, sale, delivery,
25 transporting, distributing, or dispensing by the registered organiza-
26 tion, subject to regulations of the executive director.

27 § 38. Evaluation; research programs; report by office. 1. The execu-
28 tive director may provide for the analysis and evaluation of the opera-
29 tion of this title. The executive director may enter into agreements
30 with one or more persons, not-for-profit corporations or other organiza-
31 tions, for the performance of an evaluation of, or to aid in, the imple-
32 mentation and effectiveness of this title.

33 2. The office may develop, seek any necessary federal approval for,
34 and carry out research programs relating to medical use of cannabis.
35 Participation in any such research program shall be voluntary on the
36 part of practitioners, patients, and designated caregivers.

37 3. The office shall report every two years, beginning two years after
38 the effective date of this chapter, to the governor and the legislature
39 on the medical use of cannabis under this title and make appropriate
40 recommendations.

41 § 39. Cannabis research license. 1. The board shall establish a
42 cannabis research license that permits a licensee to produce, process,
43 purchase and possess cannabis for the following limited research
44 purposes:

45 (a) to test chemical potency and composition levels;

46 (b) to conduct clinical investigations of cannabis-derived drug
47 products;

48 (c) to conduct research on the efficacy and safety of administering
49 cannabis as part of medical treatment; and

50 (d) to conduct genomic or agricultural research.

51 2. As part of the application process for a cannabis research license,
52 an applicant shall submit to the office a description of the research
53 that is intended to be conducted as well as the amount of cannabis to be
54 grown or purchased. The office shall review an applicant's research
55 project and determine whether it meets the requirements of subdivision

1 one of this section. In addition, the office shall assess the applica-
2 tion based on the following criteria:

3 (a) project quality, study design, value, and impact;

4 (b) whether the applicant has the appropriate personnel, expertise,
5 facilities and infrastructure, funding, and human, animal, or other
6 approvals in place to successfully conduct the project; and

7 (c) whether the amount of cannabis to be grown or purchased by the
8 applicant is consistent with the project's scope and goals. If the
9 office determines that the research project does not meet the require-
10 ments of subdivision one of this section, the application must be
11 denied.

12 3. A cannabis research licensee may only sell cannabis grown or within
13 its operation to other cannabis research licensees. The office may
14 revoke a cannabis research license for violations of this subdivision.

15 4. A cannabis research licensee may contract with the higher education
16 institutions to perform research in conjunction with the university. All
17 research projects, entered into under this section shall be approved by
18 the office and meet the requirements of subsection one of this section.

19 5. In establishing a cannabis research license, the board may adopt
20 regulations on the following:

21 (a) application requirements;

22 (b) cannabis research license renewal requirements, including whether
23 additional research projects may be added or considered;

24 (c) conditions for license revocation;

25 (d) security measures to ensure cannabis is not diverted to purposes
26 other than research;

27 (e) amount of plants, useable cannabis, cannabis concentrates, or
28 cannabis-infused products a licensee may have on its premises;

29 (f) licensee reporting requirements;

30 (g) conditions under which cannabis grown by licensed cannabis produc-
31 ers and other product types from licensed cannabis processors may be
32 donated to cannabis research licensees; and

33 (h) any additional requirements deemed necessary by the office.

34 6. A cannabis research license issued pursuant to this section shall
35 be issued in the name of the applicant, specify the location at which
36 the cannabis researcher intends to operate, which shall be within the
37 state of New York, and the holder thereof may not allow any other person
38 to use the license.

39 7. The application fee for a cannabis research license shall be deter-
40 mined by the executive director on an annual basis.

41 8. Each cannabis research licensee shall issue an annual report to the
42 office. The office shall review such report and make a determination as
43 to whether the research project continues to meet the research quali-
44 fications under this section.

45 § 40. Registered organizations and adult-use cannabis. 1. The execu-
46 tive director shall have the authority to grant some or all of the
47 registered organizations previously registered with the department of
48 health and currently registered and in good standing with the office,
49 the ability to be licensed to cultivate, process, distribute and/or sell
50 adult-use cannabis and cannabis products, pursuant to any fees, rules or
51 conditions prescribed by the board in regulation, but exempt from the
52 restrictions on licensed adult-use cultivators, processors, and distrib-
53 utors from having any ownership interest in a licensed adult-use retail
54 dispensary wholly owned and controlled by the registered organization
55 pursuant to article four of this chapter.

2. The office shall have the authority to hold a competitive bidding process, including an auction, to determine the registered organization(s) authorized to be licensed to cultivate, process, distribute and/or sell adult-use cannabis and to collect the fees generated from such auction to administer the office's social and economic equity plan and other duties prescribed by this chapter.

3. Alternatively, registered organizations may apply for licensure as an adult-use cannabis cultivator, adult-use cannabis processor, and adult-use cannabis distributor, or apply for licensure as an adult-use cannabis retail dispensary, subject to all of the restrictions and limitations set forth in article four of this chapter.

4. Any registered organization which is licensed to cultivate, process, distribute and sell adult-use cannabis and cannabis products pursuant to this section and article four of this chapter, shall be required to maintain sufficient supply and distribution of medical cannabis products for certified patients pursuant to regulations promulgated by the executive director.

§ 41. Home cultivation of medical cannabis. 1. Eligible certified patients or one of their designated caregivers twenty-one years of age or older may apply for registration with the office to grow and possess no more than four cannabis plants, as defined by the executive director in regulation, per household.

2. All medical cannabis cultivated at home must be grown and stored in a single location in an enclosed, locked space, not open or viewable to the public. Such homegrown medical cannabis must only be for use by the certified patient and may not be distributed, sold, or gifted.

3. The board shall develop rules and regulations governing this section which shall include, but not be limited to:

(a) the registration of medical cannabis cultivated at home users and tracking of individual plants and the cannabis they produce;

(b) the inspection of medical cannabis cultivated at home to ensure compliance with possession limits and any building code, fire code, or other applicable state or local laws;

(c) restrictions and prohibitions on the unlicensed manufacturing and processing of medical cannabis products;

(d) application and eligibility requirements for a patient or one of their designated caregivers to qualify and be approved to grow medical cannabis;

(e) odor mitigation systems and plans that must be utilized for the home growing of medical cannabis;

(f) systems and processes that shall be used to confirm grow and possession limits compliance with law enforcement officials;

(g) possession limit equivalencies and restrictions on how much harvested and unused cannabis may be possessed by patients and caregivers who grow at home;

(h) the requirement that any patient or caregiver who cultivates medical cannabis at home provides proof of ownership of the grow location or written permission from the owner, landlord or governing board;

(i) enforcement of non-compliant cultivation at home including but not limited to the revocation of any registration or registry identification card associated with the patient and the seizure and destruction of non-compliant cannabis plants and products and the acquisition and transfer of cannabis plants;

(j) cultivation of medical cannabis at home location requirements; and

1 (k) any other regulations related to cultivation of medical cannabis
2 at home, the growing infrastructure used, those with access to the site,
3 or the cannabis material produced.

4 4. An eligible designated caregiver approved by the office may only
5 grow for one patient.

6 5. A designated caregiver may not accept any money, fees, consider-
7 ation, services, or any exchange of value in return for their growing
8 services.

9 6. Any person in violation of state law or regulations related to
10 cultivation of medical cannabis at home shall have any cannabis registry
11 identification card, license, registration, or permit immediately
12 revoked and shall be subject to administrative fines and penalties
13 imposed by the office, as determined in regulation, and shall be subject
14 to any applicable criminal penalties.

15 § 42. Relation to other laws. 1. The provisions of this article shall
16 apply, except that where a provision of this article conflicts with
17 another provision of this chapter, this article shall apply.

18 2. Medical cannabis shall not be deemed to be a "drug" for purposes of
19 article one hundred thirty-seven of the education law.

20 § 43. Protections for the medical use of cannabis. 1. Certified
21 patients, designated caregivers, designated caregiver facilities, prac-
22 titioners, registered organizations and the employees of registered
23 organizations, and cannabis researchers shall not be subject to arrest,
24 prosecution, or penalty in any manner, or denied any right or privilege,
25 including but not limited to civil penalty or disciplinary action by a
26 business or occupational or professional licensing board or bureau,
27 solely for the certified medical use or manufacture of cannabis, or for
28 any other action or conduct, in accordance with this article.

29 2. Being a certified patient shall be deemed to be having a "disabili-
30 ty" under article fifteen of the executive law, section forty-c of the
31 civil rights law, sections 240.00, 485.00, and 485.05 of the penal law,
32 and section 200.50 of the criminal procedure law. This subdivision shall
33 not bar the enforcement of a policy prohibiting an employee from
34 performing his or her employment duties while impaired by or under the
35 influence of a controlled substance. This subdivision shall not require
36 any person or entity to do any act that would put the person or entity
37 in direct violation of federal law or cause it to lose a federal
38 contract or funding.

39 3. The fact that a person is a certified patient and/or acting in
40 accordance with this article, shall not be a consideration in a proceed-
41 ing pursuant to applicable sections of the domestic relations law, the
42 social services law and the family court act.

43 4. (a) Certification applications, certification forms, any certified
44 patient information contained within a database, and copies of registry
45 identification cards shall be deemed exempt from public disclosure under
46 sections eighty-seven and eighty-nine of the public officers law. Upon
47 specific request by a certified patient to the office, the office may
48 verify the requesting patient's status as a valid certified patient to
49 the patient's school or employer, to ensure compliance with the
50 protections afforded by this section.

51 (b) The name, contact information, and other information relating to
52 practitioners registered with the office under this article shall be
53 public information and shall be maintained by the executive director on
54 the office's website accessible to the public in searchable form. Howev-
55 er, if a practitioner notifies the office in writing that he or she does
56 not want his or her name and other information disclosed, that practi-

tioner's name and other information shall thereafter not be public information or maintained on the office's website, unless the practitioner cancels the request.

§ 44. Regulations. The board shall make regulations to implement this article.

§ 45. Suspend; terminate. Based upon the recommendation of the executive director and/or the superintendent of state police that there is a risk to the public health or safety, the governor may immediately terminate all licenses issued to registered organizations.

§ 46. Pricing. 1. Every sale of medical cannabis shall be at or below the price approved by the executive director. Every charge made or demanded for medical cannabis not in accordance with the price approved by the executive director, is prohibited.

2. The executive director is hereby authorized to set the per dose price of each form of medical cannabis sold by any registered organization. In reviewing the per dose price of each form of medical cannabis, the executive director may consider the fixed and variable costs of producing the form of cannabis and any other factor the executive director, in his or her discretion, deems relevant in reviewing the per dose price of each form of medical cannabis.

§ 47. Severability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

ARTICLE 4 ADULT-USE CANNABIS

Section 60. Licenses issued.

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65. Limitations of licensure.

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74. On-site consumption license; provisions governing on-site consumption licenses.

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1 80. Provisions governing the cultivation and processing of
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3 81. Provisions governing the distribution of adult-use cannabis.

4 82. Provisions governing adult-use cannabis retail dispensaries.

5 83. Adult-use cannabis advertising and marketing.

6 84. Minority, women-owned businesses and disadvantaged farmers;
7 social and economic equity plan.

8 85. Regulations.

9 § 60. Licenses issued. The following kinds of licenses shall be
10 issued by the executive director for the cultivation, processing,
11 distribution and sale of cannabis to cannabis consumers:

12 1. Adult-use cultivator license;

13 2. Adult-use processor license;

14 3. Adult-use cooperative license;

15 4. Adult-use distributor license;

16 5. Adult-use retail dispensary license;

17 6. On-site consumption license; and

18 7. Any other type of license as prescribed by the board in regulation.

19 § 61. License Application. 1. Any eligible person may apply to the
20 office for a license to cultivate, process, distribute or dispense
21 cannabis within this state for sale during an open application period
22 and pursuant to regulations promulgated by the office. Such application
23 shall be in writing and verified and shall contain such information as
24 the office shall require. Such application shall be accompanied by a
25 check, draft or other forms of payment as the office may require for the
26 amount required by this article for such license. If the office approves
27 the application, it may issue a license in such form and through such
28 process prescribed by the office. Such license shall contain a
29 description of the licensed premises and in form and in substance shall
30 be a license to the person therein specifically designated to cultivate,
31 process, distribute or dispense cannabis in the premises therein specif-
32 ically licensed or to engage in any other licensed, registered or
33 permitted activity within the state, and the address, location, and/or
34 scope specified by the office.

35 2. Except as otherwise provided in this article, a separate license
36 shall be required for each facility at which cultivation, processing,
37 distribution or retail dispensing is conducted.

38 3. An applicant shall not be denied a license under this article based
39 solely on a conviction for a violation of article two hundred twenty or
40 section 240.36 of the penal law, prior to the date article two hundred
41 twenty-one of the penal law took effect, or a conviction for a violation
42 of article two hundred twenty-one of the penal law after the effective
43 date of this chapter.

44 § 62. Information to be requested in applications for licenses. 1. The
45 office shall have the authority to prescribe the manner and form in
46 which an application must be submitted to the office for licensure under
47 this article. Such information may include, but is not limited to:
48 information about the applicant's identity, including racial and ethnic
49 background; ownership and investment information, including the corpo-
50 rate structure; evidence of good moral character, including the
51 submission of fingerprints by the applicant to the division of criminal
52 justice services; information about the premises to be licensed; finan-
53 cial statements; and any other information prescribed by in regulation.

54 2. All license applications shall be signed by the applicant (if an
55 individual), by a managing partner (if a limited liability corporation),
56 by an officer (if a corporation), or by all partners (if a partnership).

1 Each person signing such application shall verify it or affirm it as
2 true under the penalties of perjury.

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

6 4. If there be any proposed change, after the filing of the applica-
7 tion or the granting of a license, in any of the facts required to be
8 set forth in such application, a supplemental statement requesting
9 approval of such change, cost and source of money involved in the
10 change, duly verified, shall be submitted to the office prior to such
11 proposed change. Failure to do so shall, if willful and deliberate, be
12 cause for revocation of the license.

13 5. In giving any notice, or taking any action in reference to a regis-
14 tered organization or licensee of a licensed premises, the office may
15 rely upon the information furnished in such application and in any
16 supplemental statement or request connected therewith, and such informa-
17 tion may be presumed to be correct, and shall be binding upon a regis-
18 tered organization, licensee or licensed premises as if correct. All
19 information required to be furnished in such application, requests or
20 supplemental statements shall be deemed material in any prosecution for
21 perjury, any proceeding to revoke or suspend any license, or impose a
22 fine and in the office's determination to approve or deny the license.

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

28 7. The office may, in its discretion, wholly prohibit and/or prescribe
29 specific criteria under which it will consider and allow limited trans-
30 fers or changes of ownership, interest, or control during the registra-
31 tion or license application period and/or up to two years after an
32 approved applicant commences licensed activities.

33 § 63. Fees. 1. The office shall have the authority to charge appli-
34 cants for licensure under this article a non-refundable application fee
35 and/or to create a competitive process determined by the office to be
36 qualified for such licensure based on the selection criteria in section
37 sixty-four of this article. Such fee may be based on the type of licen-
38 sure sought, cultivation and/or production volume, sequence or priority
39 of issuance, or any other factors deemed necessary, reasonable and
40 appropriate by the office to achieve the policy and purpose of this
41 chapter.

42 2. The office shall have the authority to charge licensees a biennial
43 or annual license fee which shall be non-refundable. Such fee may be
44 based on the amount of cannabis to be cultivated, processed, distributed
45 and/or dispensed by the licensee or the gross annual receipts of the
46 licensee for the previous license period, or any other factors deemed
47 reasonable and appropriate by the office.

48 3. The office shall have the authority to waive or reduce fees pursu-
49 ant to this section for social and economic equity applicants.

50 § 64. Approval and selection criteria. 1. The board shall develop
51 regulations for use by the office in determining whether or not an
52 applicant should be approved for and subsequently granted the privilege
53 of holding an adult-use cannabis license. The criteria for such approval
54 or subsequent issuance shall be based on, but not limited to, the
55 following criteria:

1 (a) the applicant will be able to maintain effective control against
2 the illegal diversion or inversion of cannabis;

3 (b) the applicant will be able to comply with all applicable state
4 laws and regulations;

5 (c) the applicant and its officers are ready, willing, and able to
6 properly carry on the activities for which a license is sought;

7 (d) where appropriate and applicable, the applicant possesses or has
8 the right to use, or opportunity to acquire, sufficient land, buildings,
9 and equipment to properly carry on the activity described in the appli-
10 cation;

11 (e) it is in the public interest that such license be granted, taking
12 into consideration, but not limited to, the following criteria:

13 (i) that it is a privilege, and not a right, to cultivate, process,
14 distribute, and sell cannabis;

15 (ii) the number, classes, scope and character of other licenses or
16 approved applicants in proximity to the location or in the state, county
17 or particular municipality or subdivision thereof as appropriate;

18 (iii) evidence that all necessary licenses and permits have been
19 obtained from the state and all other governing bodies;

20 (iv) the history of cannabis or other relevant regulatory violations
21 at the proposed location or by the applicant in any relevant jurisdic-
22 tion, as well as any pattern of violations under this chapter, and
23 reported criminal activity at the proposed premises;

24 (v) the effect on the production, price and availability of cannabis
25 and cannabis products; and

26 (vi) any other factors specified by law or regulation that are rele-
27 vant to determine that granting a license would promote public health
28 and safety and the public interest of the state, county or community;

29 (f) the applicant and its managing officers do not have an ownership
30 or controlling interest in more licenses, permits, or the scope of
31 activity allowed by this chapter, or any regulations promulgated here-
32 under;

33 (g) the applicant has entered into a labor peace agreement with a
34 bona-fide labor organization that is actively engaged in representing or
35 attempting to represent the applicant's employees, and the maintenance
36 of such a labor peace agreement shall be an ongoing material condition
37 of licensure;

38 (h) the applicant will contribute to communities, the workforce and
39 people disproportionately harmed by cannabis law enforcement through
40 participation in the social and economic equity plan implemented by the
41 office or other suitable means;

42 (i) if the application is for an adult-use cultivator license, the
43 environmental impact of the facility to be licensed; and

44 (j) the applicant satisfies any other conditions as determined by the
45 executive director.

46 2. If the executive director is not satisfied that the applicant is
47 eligible to be approved, or subsequently should be issued a license, the
48 executive director shall notify the applicant in writing of the specific
49 reason or reasons for denial.

50 § 65. Limitations of licensure. 1. No license of any kind may be
51 issued to a person under the age of twenty-one years, nor shall any
52 licensee employ anyone under the age of eighteen years.

53 2. No person shall sell, deliver, or give away or cause or permit or
54 procure to be sold, delivered or given away any cannabis to any person,
55 actually or apparently, under the age of twenty-one years, or any visi-
56 bly intoxicated person.

1 3. No person shall knowingly sell, deliver, or give away or cause or
2 permit or procure to be sold, delivered or given away to a lawful canna-
3 bis consumer any amount of cannabis which would cause the lawful canna-
4 bis consumer to be in violation of the possession limits established by
5 this chapter, or their equivalent as determined by the executive direc-
6 tor in regulation.

7 4. The office shall have the authority to limit, by canopy, plant
8 count, square footage or other means, the amount of cannabis allowed to
9 be grown, processed, distributed or sold by a licensee.

10 5. All licenses under this article shall expire two years after the
11 date of issue.

12 § 66. License renewal. 1. Each license, issued pursuant to this arti-
13 cle, may be approved for renewal upon application therefor by the licen-
14 see and the payment of the fee for such license as prescribed by this
15 article. In the case of applications for renewals, the office may
16 dispense with the requirements of such statements as it deems unneces-
17 sary in view of those contained in the application made for the original
18 license, but in any event the submission of photographs of the licensed
19 premises may be dispensed with, provided the applicant for such renewal
20 shall file a statement with the office to the effect that there has been
21 no alteration of such premises since the original license was issued.
22 The office may make such rules as it deems necessary, not inconsistent
23 with this chapter, regarding applications for renewals of licenses and
24 permits and the time for making the same.

25 2. The office shall create a social responsibility framework agreement
26 and make the adherence to and fulfillment of such agreement a condi-
27 tional requirement of license renewal.

28 3. The office shall provide an application for renewal of a license
29 issued under this article not less than ninety days prior to the expira-
30 tion of the current license.

31 4. The office may only issue a renewal license upon receipt of the
32 prescribed renewal application and renewal fee from a licensee if, in
33 addition to the criteria in this section, the licensee's license is not
34 under suspension and has not been revoked.

35 5. Each applicant must maintain a labor peace agreement with a bona-
36 fide labor organization that is actively engaged in representing or
37 attempting to represent the applicant's employees and the maintenance of
38 such a labor peace agreement shall be an ongoing material condition of
39 licensure.

40 § 67. Amendments; changes in ownership and organizational structure.

41 1. Licenses issued pursuant to this article shall specify:

- 42 (a) the name and address of the licensee;
- 43 (b) the activities permitted by the license;
- 44 (c) the land, buildings, facilities, locations or areas that may be
45 used for the licensed activities of the licensee;
- 46 (d) a unique license number issued by the office to the licensee; and
- 47 (e) such other information as the executive director shall deem neces-
48 sary to assure compliance with this chapter.

49 2. Upon application to the office, an application or license may be
50 amended to allow the applicant or licensee to relocate within the state,
51 to add or delete licensed activities or facilities, or to amend the
52 ownership or organizational structure of the entity that is the appli-
53 cant or licensee, upon approval by the executive director. The fee for
54 such amendment shall be determined by the executive director in regu-
55 lation.

3. A license shall become void by a change in ownership, management, interest, substantial corporate change, location, or material changes in operations without prior written approval of the executive director. The executive director may promulgate regulations specifying the process for amendment requests and allowing for certain types of changes in ownership without the need for prior written approval.

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

(a) for a corporation, a change of five percent or more of the officers and/or directors, or a transfer of five percent or more of stock of such corporation, or an existing stockholder obtaining five percent or more of the stock of such corporation; or

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

§ 68. Adult-use cultivator license. 1. An adult-use cultivator's license shall authorize the acquisition, possession, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed processors in this state. The board may establish regulations allowing licensed adult-use cultivators to perform certain types of minimal processing, defined in regulation, without the need for an adult-use processor license.

2. For purposes of this section, cultivation shall include, but not be limited to, the planting, growing, cloning, harvesting, drying, curing, grading and trimming of cannabis.

3. A person holding an adult-use cultivator's license may apply for, and obtain, one processor's license and one distributor's license.

4. A person holding an adult-use cultivator's license may not also hold a retail dispensary license pursuant to this article and no adult-use cannabis cultivator shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, share parent companies or affiliate organizations, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

5. A person holding an adult-use cultivator's license may not hold a license to distribute cannabis under this article unless the licensed cultivator is also licensed as a processor under this article.

6. No person may have a direct or indirect financial or controlling interest in more than one adult-use cultivator license issued pursuant to this chapter, provided that one adult-use cultivator license may authorize adult-use cultivation in more than one location.

7. The executive director shall have the authority to issue microbusiness cultivator licenses, allowing microbusiness licensees to cultivate, process, and distribute adult-use cannabis direct to licensed cannabis retailers, under a single license. The board may establish through regulation microbusiness license eligibility criteria and production limits of total cannabis cultivated, processed and/or distributed annually for microbusiness cultivator licenses.

§ 69. Adult-use processor license. 1. A processor's license shall authorize the acquisition, possession, processing and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed distributors.

2. For purposes of this section, processing shall include, but not be limited to, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing cannabis products. Processing shall not include the cultivation of cannabis.

3. No processor shall be engaged in any other business on the premises to be licensed; except that nothing contained in this chapter shall prevent an adult-use cannabis cultivator, processor, and distributor from operating on the same premises and from a person holding all three licenses.

4. No cannabis processor licensee may hold more than one cannabis processor license, provided a single license may authorize processor activities at multiple locations.

5. No adult-use cannabis processor shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, or through parent organizations or affiliate entities, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

§ 70. Adult-use cooperative license. 1. A cooperative license shall authorize the acquisition, possession, cultivation, processing and sale from the licensed premises of the adult-use cooperative by such licensee to duly licensed distributors and/or retail dispensaries; but not directly to cannabis consumers.

2. To be licensed as an adult-use cooperative, the cooperative must:

(a) be comprised of residents of the state of New York as a limited liability company or limited liability partnership under the laws of the state, or an appropriate business structure as determined by the executive director; and

(b) the cooperative must operate according to the seven cooperative principles published by the International Cooperative Alliance in nineteen hundred ninety-five.

3. No person shall be a member of more than one adult-use cooperative licensed pursuant to this section.

4. No person or member of an adult-use cooperative license may have a direct or indirect financial or controlling interest in any other adult-use cannabis license issued pursuant to this chapter.

5. No adult-use cannabis cooperative shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

6. The board shall promulgate regulations governing cooperative licenses, including, but not limited to, the establishment of canopy limits and other restrictions on the size and scope of cooperative licensees.

§ 71. Adult-use distributor license. 1. A distributor's license shall authorize the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, microbusiness cultivator, adult-use cooperative, or registered organization authorized to sell adult-use cannabis, to duly licensed retail dispensaries.

2. No distributor shall have a direct or indirect economic interest in any adult-use retail dispensary licensed pursuant to this article, or in any registered organization registered pursuant to article three of this

chapter. This restriction shall not prohibit a registered organization authorized pursuant to section forty of this chapter, from being granted licensure by the office to distribute adult-use cannabis products cultivated and processed by the registered organization to the registered organization's own licensed adult-use retail dispensaries.

3. Nothing in subdivision two of this section shall prevent a distributor from charging an appropriate fee for the distribution of cannabis, including based on the volume of cannabis distributed.

4. Adult-use distributor licensees are subject to minimum operating requirements as determined by regulation.

§ 72. Adult-use retail dispensary license. 1. A retail dispensary license shall authorize the acquisition, possession and sale of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.

2. No person may have a direct or indirect financial or controlling interest in more than three retail dispensary licenses issued pursuant to this chapter. This restriction shall not prohibit a registered organization, authorized pursuant to section forty of this chapter, from being granted licensure by the office to sell adult-use cannabis at locations previously registered by the department of health; subject to any conditions, limitations or restrictions established by the office.

3. No person holding a retail dispensary license may also hold or have any interest in an adult-use cultivation, processor, microbusiness cultivator, cooperative or distributor license pursuant to this article.

4. No retail license shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, management agreement or other agreement giving the applicant control over the premises, in writing, for a term not less than the license period.

5. No cannabis retail license shall be granted for any premises within five hundred feet of a building occupied exclusively as a school, or two hundred feet of a church, synagogue or other place of worship.

§ 73. Notification to municipalities of adult-use on-site consumption license. 1. Adult-use on-site consumption applicants must notify the municipality in which the proposed premises is located within ten business days of identifying the proposed premises and/or executing a lease, letter of intent to occupy the premises, or execution of a purchase and sale agreement.

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 proposed or secured premises is located within the boundaries of such 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 proposed or secured premises is located shall be considered the appropriate public body to which notification shall be given.

3. Such notification shall be made in such form as shall be prescribed by the rules of the office.

4. Such notification shall be made in such manner as outlined by the office in regulation.

5. The office shall require such notification to be on a standardized form that can be obtained on the internet or from the office and such

1 notification shall include applicant, licensee and proposed or secured
2 premises information as determined by the office in regulation.

3 § 74. On-site consumption license; provisions governing on-site
4 consumption licenses. 1. No licensed adult-use cannabis retail dispen-
5 sary may be granted a cannabis on-site consumption license for any prem-
6 ises, unless the applicant shall be the owner thereof, or shall be in
7 possession of said premises under a lease, in writing, for a term not
8 less than the license period except, however, that such license may
9 thereafter be renewed without the requirement of a lease as provided in
10 this section. This subdivision shall not apply to premises leased from
11 government agencies, as defined under subdivision twenty of section
12 three of this chapter; provided, however, that the appropriate adminis-
13 trator of such government agency provides some form of written documen-
14 tation regarding the terms of occupancy under which the applicant is
15 leasing said premises from the government agency for presentation to the
16 office at the time of the license application. Such documentation shall
17 include the terms of occupancy between the applicant and the government
18 agency, including, but not limited to, any short-term leasing agreements
19 or written occupancy agreements.

20 2. No adult-use cannabis retail dispensary shall be granted a cannabis
21 on-site consumption license for any premises within five hundred feet of
22 a building occupied exclusively as a school, or two hundred feet of a
23 church, synagogue or other place of worship.

24 3. The office may consider any or all of the following in determining
25 whether public health, safety, and convenience and the public interest
26 will be promoted by approving an application or the granting of a
27 license for an on-site cannabis consumption at a particular location:

28 (a) that it is a privilege, and not a right, to cultivate, process,
29 distribute, and sell cannabis;

30 (b) the number, classes, scope and character of other licenses in
31 proximity to the location and in the particular municipality or subdivi-
32 sion thereof;

33 (c) evidence that all necessary licenses and permits have been
34 obtained from the state and all other governing bodies;

35 (d) the history of violations under this chapter, or cannabis laws and
36 regulations of another jurisdiction, and reported criminal activity at
37 the proposed premises or associated with the applicant; and

38 (e) any other factors that, in the judgment of the office, are rele-
39 vant to determine that granting a license would promote public health,
40 safety and convenience and the public interest of the community;

41 4. If the office shall deny an application for an on-site consumption
42 license, 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 office for a review of such action in a manner to be prescribed
45 by the rules of the office.

46 5. All retail licensed premises shall be subject to inspection by any
47 peace officer, acting pursuant to his or her special duties, or police
48 officer and by the duly authorized representatives of the office, during
49 the hours when the said premises are open for the transaction of busi-
50 ness.

51 6. A cannabis on-site consumption licensee shall not provide cannabis
52 products to any person under the age of twenty-one or to anyone visibly
53 intoxicated.

54 7. The office, in its discretion, shall have the ability to prior-
55 itize, or postpone accepting applications for, and the issuance of,
56 on-site consumption licenses, and/or prioritize or limit the acceptance

1 and review of applications from applicant pools such as social and
2 economic equity applicants, consistent with the intent of this chapter.

3 8. The office shall promulgate rules and regulations governing the
4 minimum operating requirements for on-site consumption licensees.

5 § 75. Record keeping and tracking. The board shall, by regulation,
6 require each licensee pursuant to this article to adopt and maintain
7 security, tracking, record keeping, record retention and surveillance
8 systems, relating to all cannabis at every stage of acquiring,
9 possession, manufacture, sale, delivery, transporting, or distributing
10 by the licensee.

11 § 76. Inspections and ongoing requirements. All licensed or permitted
12 premises, regardless of the type of premises, and records including
13 financial statements and corporate documents, shall be subject to
14 inspection by the office, by the duly authorized representatives of the
15 office, by any peace officer acting pursuant to his or her special
16 duties, or by a police officer. The office shall make reasonable accom-
17 modations so that ordinary business is not interrupted and safety and
18 security procedures are not compromised by the inspection. A person who
19 holds a license or permit must make himself or herself, or an agent
20 thereof, available and present for any inspection required by the
21 office. Such inspection may include, but is not limited to, ensuring
22 compliance by the licensee or permittee with all of the requirements of
23 this article, the regulations promulgated pursuant thereto, and other
24 applicable building codes, fire, health, safety, and governmental regu-
25 lations, including at the municipal, county, and state level and include
26 any inspector or official of relevant jurisdiction.

27 § 77. Adult-use cultivators, processors or distributors not to be
28 interested in retail dispensaries. 1. It shall be unlawful for a culti-
29 vator, processor, cooperative or distributor licensed under this article
30 to:

31 (a) be interested directly or indirectly in any premises where any
32 cannabis product is sold at retail; or in any business devoted wholly or
33 partially to the sale of any cannabis product at retail by stock owner-
34 ship, interlocking directors, mortgage or lien or any personal or real
35 property, or by any other means.

36 (b) make, or cause to be made, any loan to any person engaged in the
37 manufacture or sale of any cannabis product at wholesale or retail.

38 (c) make any gift or render any service of any kind whatsoever,
39 directly or indirectly, to any person licensed under this chapter which
40 in the judgment of the office may tend to influence such licensee to
41 purchase the product of such cultivator or processor or distributor.

42 (d) enter into any contract or agreement with any retail licensee
43 whereby such licensee agrees to confine his sales to cannabis products
44 manufactured or sold by one or more such cultivator or processors or
45 distributors. Any such contract shall be void and subject the licenses
46 of all parties concerned to revocation for cause and any applicable
47 administrative enforcement and penalties.

48 2. The provisions of this section shall not prohibit a registered
49 organization authorized pursuant to section forty of this chapter, from
50 cultivating, processing, distributing and selling adult-use cannabis
51 under this article, at facilities wholly owned and operated by such
52 registered organization, subject to any conditions, limitations or
53 restrictions established by the office.

54 3. The board shall have the authority to create rules and regulations
55 in regard to this section.

§ 78. Packaging, labeling, form and administration of adult-use cannabis products. 1. The board is hereby authorized to promulgate rules and regulations governing the packaging, labeling, form and method of administration or ingestion, branding and marketing of cannabis products, sold or possessed for sale in New York state.

2. Such regulations shall include, but not be limited to, requiring that:

(a) packaging meets requirements similar to the federal "poison prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;

(b) prior to delivery or sale at a retailer, cannabis and cannabis products shall be labeled according to regulations and placed in a resealable, child-resistant package; and

(c) packages, labels, forms and products shall not be made to be attractive to or target persons under the age of twenty-one.

3. Such regulations shall include requiring labels warning consumers of any potential impact on human health resulting from the consumption of cannabis products that shall be affixed to those products when sold, if such labels are deemed warranted by the office and may establish standardized and/or uniform packaging requirements for adult-use products.

4. Such rules and regulations shall determine serving sizes for cannabis-infused products, active cannabis concentration per serving size, and number of servings per container. Such regulations shall also require a nutritional fact panel that incorporates data regarding serving sizes and potency thereof.

5. Such rules and regulations shall establish approved product types and forms and establish an application and review process to determine the suitability of new product types and forms, taking into consideration the consumer and public health and safety implications of different product varieties, manufacturing processes, product types and forms, the means and methods of ingestion associated with specific product types, and any other criteria identified by the board for consideration to protect public health and safety.

6. The packaging, sale, labeling, marketing, branding, advertising or possession by any licensee of any cannabis product not labeled or offered in conformity with rules and regulations promulgated in accordance with this section shall be grounds for the imposition of a fine, and/or the suspension, revocation or cancellation of a license. Fines may be imposed on a per violation, per day basis.

§ 79. Laboratory testing. 1. Every processor of adult-use cannabis shall contract with an independent laboratory permitted pursuant to section one hundred twenty-nine of this chapter, to test the cannabis products it produces pursuant to rules and regulations prescribed by the office. The board may assign an approved testing laboratory, which the processor of adult-use cannabis must use, and may establish consortia with neighboring states, to inform best practices, and share data.

2. Adult-use cannabis processors, cooperatives and microbusinesses shall make laboratory test reports available to licensed distributors and retail dispensaries for all cannabis products manufactured by the processor or licensee.

3. Licensed retail dispensaries shall maintain accurate documentation of laboratory test reports for each cannabis product offered for sale to cannabis consumers. Such documentation shall be made publicly available by the licensed retail dispensary.

4. Onsite laboratory testing by licensees is permissible subject to regulation; however, such testing shall not be certified by the office

1 and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

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3 5. An owner of a cannabis laboratory testing permit shall not hold a license, or interest in a license, in any other category within this article and shall not own or have ownership interest in a registered organization registered pursuant to article three of this chapter.

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6 6. The office shall have the authority to require any licensee under this article to submit cannabis or cannabis products to one or more independent laboratories for testing and the board may promulgate regulations related to all aspects of third-party testing and quality assurance including but not limited to:

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12 (a) minimum testing and sampling requirements;

13 (b) testing and sampling methodologies;

14 (c) testing reporting requirements;

15 (d) retesting; and

16 (e) product quarantine, hold, recall, and remediation.

17 § 80. Provisions governing the cultivation and processing of adult-use cannabis. 1. Cultivation of cannabis shall comply with regulations promulgated by the board governing minimum requirements.

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20 2. No cultivator or processor of adult-use cannabis shall sell, or agree to sell or deliver in the state any cannabis products, as the case may be, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the office. Such containers shall have affixed thereto such labels or other means of tracking and identification as may be required by the rules of the executive director.

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26 3. No cultivator or processor of adult-use cannabis shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the office. The office may make such rules as it deems necessary to carry out the purpose and intent of this subdivision.

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32 4. The board, in conjunction with the department of environmental conservation, shall promulgate all necessary rules and regulations, as well as a process for approval, governing the safe production of cannabis including, but not limited to, environmental and energy standards and restrictions on the use of pesticides.

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37 5. No cultivator or processor of adult-use cannabis shall deliver any cannabis products, except in vehicles owned and operated by such cultivator, processor, or hired and operated by such cultivator or processor from a trucking or transportation company registered with the office, and shall only make deliveries at the licensed premises of the purchaser.

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43 6. No cultivator or processor of adult-use cannabis, including an adult-use cannabis cooperative or microbusiness cultivator, may offer any incentive, payment or other benefit to a licensed cannabis retail dispensary in return for carrying the cultivator, processor, cooperative or microbusiness cultivator's products, or preferential shelf placement.

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48 7. All cannabis products shall be processed in accordance with good manufacturing processes for the product category, pursuant to either Part 111 or Part 117 of Title 21 of the Code of Federal Regulations, as may be defined and modified by the board in regulation, which shall to the extent practicable and possible, align with neighboring state requirements.

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54 8. No processor of adult-use cannabis shall produce any product which, in the discretion of the office, is designed to appeal to anyone under 55 the age of twenty-one years.

1 9. The use or integration of wine, beer, liquor or nicotine or any
2 other substance identified in regulation in cannabis products is prohib-
3 ited.

4 10. The board shall promulgate regulations governing the minimum
5 requirements for the secure transport of adult-use cannabis.

6 § 81. Provisions governing the distribution of adult-use cannabis. 1.
7 No distributor shall sell, or agree to sell or deliver any cannabis
8 products, as the case may be, in any container, except in a sealed pack-
9 age. Such containers shall have affixed thereto such labels as may be
10 required by the rules of the office.

11 2. No distributor shall deliver any cannabis products, except in vehi-
12 cles owned and operated by such distributor, or hired and operated by
13 such distributor from a trucking or transportation company registered
14 with the office, and shall only make deliveries at the licensed premises
15 of the purchaser.

16 3. Each distributor shall keep and maintain upon the licensed prem-
17 ises, adequate books and records of all transactions involving the busi-
18 ness transacted by such distributor, which shall show the amount of
19 cannabis products purchased by such distributor together with the names,
20 license numbers and places of business of the persons from whom the same
21 was purchased and the amount involved in such purchases, as well as the
22 amount of cannabis products sold by such distributor together with the
23 names, addresses, and license numbers of such purchasers and any other
24 information required in regulation. Each sale shall be recorded sepa-
25 rately on a numbered invoice, which shall have printed thereon the
26 number, the name of the licensee, the address of the licensed premises,
27 and the current license number and any other information required in
28 regulation. Such distributor shall deliver to the purchaser a true
29 duplicate invoice stating the name and address of the purchaser, the
30 quantity of cannabis products, description by brands and the price of
31 such cannabis products, and a true, accurate and complete statement of
32 the terms and conditions on which such sale is made. Such books, records
33 and invoices shall be kept for a period of six years and shall be avail-
34 able for inspection by any authorized representative of the office.

35 4. No distributor shall furnish or cause to be furnished to any licen-
36 see, any exterior or interior sign, printed, painted, electric or other-
37 wise, unless authorized by the office.

38 5. No distributor shall provide any discount, rebate or customer
39 loyalty program to any licensed retailer, except as otherwise allowed by
40 the office.

41 6. The board is authorized to promulgate regulations establishing a
42 minimum margin for which a distributor may mark up a cannabis product
43 for sale to a retail dispensary. Any adult-use cannabis product sold by
44 a distributor in violation of the established markup allowed in regu-
45 lation, shall be unlawful.

46 7. Each distributor shall keep and maintain upon the licensed prem-
47 ises, adequate books and records to demonstrate the distributor's actual
48 cost of doing business, using accounting standards and methods regularly
49 employed in the determination of costs for the purpose of federal income
50 tax reporting, for the total operation of the licensee. Such books,
51 records, financial statements, contracts, corporate documents, and
52 invoices shall be kept for a period of six years and shall be available
53 for inspection by any authorized representative of the office, includ-
54 ing, for use in determining the minimum markup allowed in regulation
55 pursuant to subdivision six of this section.

1 § 82. Provisions governing adult-use cannabis retail dispensaries. 1.
2 No cannabis retail licensee shall sell or give away or cause or permit
3 or procure to be sold, delivered or given away any cannabis to any
4 person, actually or apparently, under the age of twenty-one years or any
5 visibly intoxicated person.

6 2. No cannabis retail licensee shall sell more than one ounce of
7 adult-use cannabis, or its equivalent amount as determined in regu-
8 lation, per cannabis consumer per day; nor more than five grams of
9 cannabis concentrate per cannabis consumer per day.

10 3. No cannabis retail licensee shall sell alcoholic beverages, nor
11 have or possess a license or permit to sell alcoholic beverages, on the
12 same premises where cannabis products are sold.

13 4. No sign of any kind printed, painted or electric, advertising any
14 brand shall be permitted on the exterior or interior of such premises,
15 except as permitted by the office.

16 5. No cannabis retail licensee shall sell any cannabis products to any
17 person with knowledge of, or with reasonable cause to believe, that the
18 person to whom such cannabis products are being sold, has acquired the
19 same for the purpose of peddling them from place to place, or of selling
20 or giving them away in violation of the provisions of this chapter or in
21 violation of the rules and regulations of the board.

22 6. All premises licensed under this section shall be subject to
23 reasonable inspection by any peace officer described in subdivision four
24 of section 2.10 of the criminal procedure law acting pursuant to his or
25 her special duties, or police officer or any duly authorized represen-
26 tative of the office.

27 7. No cannabis retail licensee shall be interested, directly or indi-
28 rectly, in any cultivator, processor or distributor licensed pursuant to
29 this article, by stock ownership, interlocking directors, mortgage or
30 lien on any personal or real property or by any other means.

31 8. No cannabis retail licensee shall make or cause to be made any loan
32 to any person engaged in the cultivation, processing or distribution of
33 cannabis pursuant to this article.

34 9. Each cannabis retail licensee shall designate the price of each
35 item of cannabis by attaching to or otherwise displaying immediately
36 adjacent to each such item displayed in the interior of the licensed
37 premises where sales are made a price tag, sign or placard setting forth
38 the price at which each such item is offered for sale therein.

39 10. No person licensed to sell cannabis products at retail, shall
40 allow or permit any gambling, or offer any gambling on the licensed
41 premises, or allow or permit illicit drug activity on the licensed prem-
42 ises. The use of the licensed premises or any part thereof for the sale
43 of lottery tickets, when duly authorized and lawfully conducted thereon,
44 shall not constitute gambling within the meaning of this subdivision.

45 11. If an employee of a cannabis retail licensee suspects that a
46 cannabis consumer may be abusing cannabis, such employee shall encourage
47 such cannabis consumer to seek the help of a state licensed facility or
48 program for the treatment of cannabis use disorder. Cannabis retail
49 licensees shall develop standard operating procedures and written mate-
50 rials for employees to utilize when consulting consumers for purposes of
51 this subdivision.

52 12. The board is authorized to promulgate regulations governing
53 licensed adult-use dispensing facilities, including but not limited to,
54 minimum general operating requirements, the hours of operation, size and
55 location of the licensed facility, potency and types of products offered
56 and establishing a minimum margin for which a retail dispensary must

1 markup a cannabis product(s) before selling to a cannabis consumer. Any
2 adult-use cannabis product sold by a retail dispensary for less than the
3 minimum markup allowed in regulation, shall be unlawful.

4 13. No adult-use retail dispensary may engage in the home delivery or
5 retail delivery of adult-use cannabis products unless they are specif-
6 ically approved and licensed to do so, or have contracted with a third-
7 party home delivery licensee. All home delivery operations must be sepa-
8 rately approved and licensed by the office and must comply with minimum
9 application, licensing and operation requirements required by the office
10 in regulation.

11 § 83. Adult-use cannabis advertising and marketing. 1. The board is
12 hereby authorized to promulgate rules and regulations governing,
13 restricting, and prohibiting various forms and content of the advertis-
14 ing and marketing of licensed adult-use cannabis cultivators, process-
15 ors, cooperatives, distributors, retailers, and any cannabis products or
16 services.

17 2. The office shall promulgate guidelines for appropriate content,
18 warnings, and means of advertising and marketing, including but not
19 limited to prohibiting advertising that:

- 20 (a) is false, deceptive, or misleading;
- 21 (b) promotes overconsumption;
- 22 (c) depicts consumption;
- 23 (d) is designed in any way to appeal to children or other minors;
- 24 (e) is within or is readily observed within five hundred feet of the
25 perimeter of a school grounds, playground, child care center, public
26 park, or library;
- 27 (f) is in public transit vehicles and stations;
- 28 (g) is in the form of an unsolicited internet pop-up;
- 29 (h) is on publicly owned or operated property;
- 30 (i) makes medical claims or promotes adult-use cannabis for a medical
31 or wellness purpose;
- 32 (j) promotes or implements discounts, coupons, or other means of sell-
33 ing adult-use cannabis products below market value or whose discount
34 would subvert local and state tax collections;
- 35 (k) the content and primary purpose of which is not to alert and
36 educate lawful cannabis consumers about the availability of regulated
37 adult-use cannabis and displace the illicit market but to solely promote
38 cannabis use; or
- 39 (l) fails to satisfy any other advertising or marketing rule or regu-
40 lations promulgated by the office related to marketing or advertising.

41 3. The office shall promulgate guidelines prohibiting all marketing
42 strategies and implementation including, but not limited to, branding,
43 packaging, labeling, location of cannabis retailers, and advertisements
44 that are designed to:

- 45 (a) appeal to persons under twenty-one years of age and/or at-risk
46 populations; or
- 47 (b) disseminate false or misleading information to customers.

48 4. The office shall promulgate guidelines requiring that:

- 49 (a) all advertisements and marketing accurately and legibly identify
50 the licensee responsible for its content and contain recognizable and
51 legible warnings associated with cannabis use; and
- 52 (b) any broadcast, cable, radio, print and digital communication
53 advertisements only be placed where the audience is reasonably expected
54 to be twenty-one years of age or older, as determined by reliable,
55 up-to-date audience composition data. The burden of proving this

1 requirement lies with the party that has paid for or facilitated the
2 advertisement.

3 5. The office shall establish procedures to review and enforce all
4 advertising and marketing requirements.

5 § 84. Minority, women-owned businesses and disadvantaged farmers;
6 social and economic equity plan. 1. The office shall implement a social
7 and economic equity plan that actively promotes racial, ethnic, and
8 gender diversity in the adult-use cannabis industry and prioritizes
9 applicants who qualify as a minority and women-owned business, social
10 equity applicant, or disadvantaged farmer and which positively impacts
11 areas that have been harmed through disproportionate enforcement of the
12 war on drugs.

13 2. The office shall create a social and economic equity plan which
14 promotes diversity in ownership and employment in the adult-use cannabis
15 industry and the inclusion of:

16 (a) minority-owned businesses;

17 (b) women-owned businesses;

18 (c) social equity applicants as defined in subdivision four of this
19 section;

20 (d) minority and women-owned businesses, as defined in subdivision
21 four of this section; and

22 (e) disadvantaged farmers, as defined in subdivision four of this
23 section.

24 3. (a) The social and economic equity plan implemented by the office
25 shall promote participation and hiring of qualified social and economic
26 equity applicants. These applicants shall be deemed qualified by the
27 office through criteria determined in this section and by regulation
28 promulgated hereunder. Once qualified, a social and economic equity
29 applicant shall be eligible to access all or some of this available
30 social and economic equity plan programs based on their qualification
31 criteria, which may include but not be limited to:

32 (i) priority and expedited application submission and review for
33 adult-use cannabis licenses;

34 (ii) priority or exclusive access to specific classes or categories of
35 adult-use cannabis licenses and licensed activities;

36 (iii) reduced or deferred fees for adult-use cannabis applications
37 and/or licenses;

38 (iv) priority access to the adult-use cannabis market by being the
39 first licensees allowed to commence licensed activities;

40 (v) priority access to the adult-use cannabis market through first or
41 exclusive access to license locations and geographic areas of operation;

42 (vi) access to low or zero interest small business loans for entry
43 into the adult-use cannabis market;

44 (vii) access to incubator programs pairing qualified and eligible
45 social and economic equity applicants with support in the form of coun-
46 seling services, education, small business development, and compliance
47 assistance;

48 (viii) access to cannabis workforce development and hiring initiatives
49 which incentivize hiring of qualified social and economic equity staff
50 members; and

51 (ix) any other available program or initiative developed under the
52 office's social and economic equity plan.

53 (b) The executive director shall have the ability to alter or amend
54 the social and economic equity plan, and its programs, to meet the needs
55 of qualified social and economic equity applicants and areas as the
56 industry grows and evolves.

(c) Under the social and economic equity plan, the board shall also have the authority to create and distribute local social and economic equity impact grants to community-based organizations which are located or operate in areas of disproportionate enforcement from the war on drugs. The application for, and administration of social and economic equity impact grants shall be determined by the office through regulations, provided sufficient funds are available.

4. For the purposes of this section, the following definitions shall apply:

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

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

(ii) an enterprise in which such minority ownership is real, substantial and continuing;

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

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

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

(i) black persons having origins in any of the black African racial groups;

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(iii) Native American or Alaskan native persons having origins in any of the original peoples of North America; or

(iv) Asian and Pacific Islander persons having origins in any of the far east countries, south east Asia, the Indian subcontinent or the Pacific islands.

(c) "Women-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

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

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

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

(e) "Disadvantaged farmer" shall mean a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that has reported at least two-thirds of its federal gross income as income from farming, in at least one of the five preceding tax years, and who:

(i) farms in a county that has greater than ten percent rate of poverty according to the latest U.S. census bureau's american communities survey;

(ii) has been disproportionately impacted by low commodity prices or faces the loss of farmland through development or suburban sprawl; and

(iii) meets any other qualifications as defined in regulation by the office.

(f) "Social equity applicants" shall mean an applicant for licensure or employment that:

(i) is or has been a member of a community group or resident of an area that has been disproportionately impacted by the enforcement of cannabis prohibition, as determined by the office in regulation;

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

(iii) was convicted of a marihuana-related offense prior to the effective date of this chapter or had a parent, guardian, child, or spouse who, prior to the effective date of this chapter, was convicted of a marihuana-related offense.

5. Licenses issued to minority and women-owned businesses or under the social and economic equity plan shall not be transferable for a period of two years except to qualified minority and women-owned businesses or social and economic equity applicants and only upon prior written approval of the executive director.

§ 85. Regulations. The board shall make regulations to implement this article.

ARTICLE 5

CANNABINOID HEMP AND HEMP EXTRACT

Section 90. Definitions.

91. Rulemaking authority.

92. Cannabinoid hemp processor license.

93. Cannabinoid hemp retailer license.

94. Cannabinoid license applications.

95. Information to be requested in applications for licenses.

96. Fees.

97. Selection criteria.

98. License renewal.

99. Form of license.

100. Transferability; amendment to license; change in ownership or control.

101. Granting, suspending or revoking licenses.

102. Record keeping and tracking.

103. Packaging and labeling of cannabinoid hemp and hemp extract.

104. Processing of cannabinoid hemp and hemp extract.

105. Laboratory testing.

106. New York hemp product.

107. Penalties.

108. Hemp workgroup.

109. Prohibitions.

110. Special use permits.

111. Severability.

§ 90. Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

1. "Cannabinoid" means the phytocannabinoids found in hemp and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law.

2. "Cannabinoid hemp" means any hemp and any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three-tenths of one percent

1 delta-9 tetrahydrocannabinol or a final delta-9 tetrahydrocannabinol
2 concentration which exceeds an amount determined by the office in regu-
3 lation.

4 3. "Used for human consumption" means intended by the manufacturer or
5 distributor to be: (a) used for human consumption for its cannabinoid
6 content; or (b) used in, on or by the human body for its cannabinoid
7 content.

8 4. "Hemp" means the plant *Cannabis sativa* L. and any part of such
9 plant, including the seeds thereof and all derivatives, extracts, canna-
10 binoids, isomers, acids, salts, and salts of isomers, whether growing or
11 not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more
12 than three-tenths of one percent on a dry weight basis. It shall not
13 include "medical cannabis" as defined in subdivision twenty-eight of
14 section three of this chapter.

15 5. "Hemp extract" means all derivatives, extracts, cannabinoids, isom-
16 ers, acids, salts, and salts of isomers derived from hemp, used or
17 intended for human consumption, for its cannabinoid content, with a
18 delta-9 tetrahydrocannabinol concentration of not more than an amount
19 determined by the office in regulation. For the purpose of this article,
20 hemp extract excludes (a) any food, food ingredient or food additive
21 that is generally recognized as safe pursuant to federal law; or (b) any
22 hemp extract that is not used for human consumption. Such excluded
23 substances shall not be regulated pursuant to the provisions of this
24 article but are subject to other provisions of applicable state law,
25 rules and regulations.

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

27 7. "Cannabinoid hemp processor license" means a license granted by the
28 office to process, extract, pack or manufacture cannabinoid hemp or hemp
29 extract into products, whether in intermediate or final form, used for
30 human consumption.

31 8. "Processing" means extracting, preparing, treating, modifying,
32 compounding, manufacturing or otherwise manipulating cannabinoid hemp to
33 concentrate or extract its cannabinoids, or creating product, whether in
34 intermediate or final form, used for human consumption. For purposes of
35 this article, processing does not include: (a) growing, cultivation,
36 cloning, harvesting, drying, curing, grinding or trimming when author-
37 ized pursuant to article twenty-nine of the agriculture and markets law;
38 or

39 (b) mere transportation, such as by common carrier or another entity
40 or individual.

41 § 91. Rulemaking authority. The board may make regulations pursuant to
42 this article for the processing, distribution, marketing, transportation
43 and sale of cannabinoid hemp and hemp extracts used for human consump-
44 tion, which may include, but not be limited to:

45 1. Specifying forms, establishing application, reasonable adminis-
46 tration and renewal fees, or license duration;

47 2. Establishing the qualifications and criteria for licensing, as
48 authorized by law;

49 3. The books and records to be created and maintained by licensees and
50 lawful procedures for their inspection;

51 4. Any reporting requirements;

52 5. Methods and standards of processing, labeling, packaging and
53 marketing of cannabinoid hemp, hemp extract and products derived there-
54 from;

6. Procedures for how cannabinoid hemp, hemp extract or ingredients, additives, or products derived therefrom can be deemed as acceptable for sale in the state;

7. Provisions governing the modes and forms of administration, including inhalation;

8. Procedures for determining whether cannabinoid hemp, hemp extract or ingredients, additives, or products derived therefrom produced outside the state or within the state meet the standards and requirements of this article and can therefore be sold within the state;

9. Procedures for the granting, cancellation, revocation or suspension of licenses, consistent with the state administrative procedures act;

10. Restrictions governing the advertising and marketing of cannabinoid hemp, hemp extract and products derived therefrom; and

11. Any other regulations necessary to implement this article.

§ 92. Cannabinoid hemp processor license. 1. Persons processing cannabinoid hemp or hemp extract used for human consumption, whether in intermediate or final form, shall be required to obtain a cannabinoid hemp processor license from the department.

2. A cannabinoid hemp processor license authorizes one or more specific activities related to the processing of cannabinoid hemp into products used for human consumption, whether in intermediate or final form, and the distribution or sale thereof by the licensee. Nothing herein shall prevent a cannabinoid hemp processor from processing, extracting and processing hemp products not to be used for human consumption.

3. Persons authorized to grow hemp pursuant to article twenty-nine of the agriculture and markets law are not authorized to engage in processing of cannabinoid hemp or hemp extract without first being licensed as a cannabinoid hemp processor under this article.

4. This article shall not apply to hemp, cannabinoid hemp, hemp extracts or products derived therefrom that are not used for human consumption. This article also shall not apply to hemp, cannabinoid hemp, hemp extracts or products derived therefrom that have been deemed generally recognized as safe pursuant to federal law.

5. The executive director shall have the authority to set reasonable fees for such license, to limit the activities permitted by such license, to establish the period during which such license is authorized, which shall be two years or more, and to make rules and regulations necessary to implement this section.

6. Any person holding an active research partnership agreement with the department of agriculture and markets, authorizing that person to process cannabinoid hemp, shall be awarded licensure under this section, provided that the research partner is actively performing research pursuant to such agreement and is able to demonstrate compliance with this article, as determined by the office, after notice and an opportunity to be heard.

§ 93. Cannabinoid hemp retailer license. 1. Retailers selling cannabinoid hemp, in final form to consumers within the state, shall be required to obtain a cannabinoid hemp retailer license from the office.

2. The executive director shall have the authority to set reasonable fees for such license, to establish the period during which such license is authorized, which shall be one year or more, and to make rules and regulations necessary to implement this section.

§ 94. Cannabinoid license applications. 1. Persons shall apply for a license under this article by submitting an application upon a form supplied by the office, providing all the relevant requested informa-

tion, verified by the applicant or an authorized representative of the applicant.

2. A separate license shall be required for each facility at which processing or retail sales are conducted; however, an applicant may submit one application for separate licensure at multiple locations.

3. Each applicant shall remit with its application the fee for each requested license, which shall be a reasonable fee.

§ 95. Information to be requested in applications for licenses. 1. The executive director may specify the manner and form in which an application shall be submitted to the office for licensure under this article.

2. The executive director shall prescribe what relevant information shall be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity; ownership and investment information, including the corporate structure; evidence of good moral character; financial statements; information about the premises to be licensed; information about the activities to be licensed; and any other relevant information prescribed by the executive director.

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

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

5. If there be any change, after the filing of the application or the granting, modification or renewal of a license, in any of the material facts required to be set forth in such application, a supplemental statement giving notice of such change, duly verified, shall be filed with the office within ten days after such change. Failure to do so, if willful and deliberate, may be grounds for revocation of the license.

§ 96. Fees. The office may charge licensees a reasonable license fee. Such fee may be based on the activities permitted by the license, the amount of cannabinoid hemp or hemp extract to be processed or extracted by the licensee, the gross annual receipts of the licensee for the previous license period, or any other factors reasonably deemed appropriate by the office.

§ 97. Selection criteria. 1. The applicant, if an individual or individuals, shall furnish evidence of the individual's good moral character, and if an entity, the applicant shall furnish evidence of the good moral character of the individuals who have or will have substantial responsibility for the licensed or authorized activity and those in control of the entity, including principals, officers, or others with such control.

2. The applicant shall furnish evidence of the applicant's experience and competency, and that the applicant has or will have adequate facilities, equipment, process controls, and security to undertake those activities for which licensure is sought.

3. The applicant shall furnish evidence of his, her or its ability to comply with all applicable state and local laws, rules and regulations.

4. If the executive director is not satisfied that the applicant should be issued a license, the executive director shall notify the applicant in writing of the specific reason or reasons for denial.

5. No license pursuant to this article may be issued to an individual under the age of eighteen years.

§ 98. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefor by the licensee and the payment of the reasonable fee for such license as specified by this article.

2. In the case of applications for renewals, the office may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license.

3. The office shall provide an application for renewal of any license issued under this article not less than ninety days prior to the expiration of the current license.

4. The office may only issue a renewal license upon receipt of the specified renewal application and renewal fee from a licensee if, in addition to the selection criteria set out in this article, the licensee's license is not under suspension and has not been revoked.

§ 99. Form of license. Licenses issued pursuant to this article shall specify:

1. The name and address of the licensee;

2. The activities permitted by the license;

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

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

5. Such other information as the office shall deem necessary to assure compliance with this chapter.

§ 100. Transferability; amendment to license; change in ownership or control. 1. Licenses issued under this article are not transferable, absent written consent of the office.

2. Upon application of a licensee, a license may be amended to add or delete permitted activities.

3. A license shall become void by a change in ownership, substantial corporate change or change of location without prior written approval of the office. The board may make regulations allowing for certain types of changes in ownership without the need for prior written approval.

§ 101. Granting, suspending or revoking licenses. After due notice and an opportunity to be heard, which process shall be established by rules and regulations, the office may decline to grant a new license, impose conditions or limits with respect to the grant of a license, modify an existing license or decline to renew a license, and may suspend or revoke a license already granted after due notice and an opportunity to be heard, as established by rules and regulations, whenever the executive director finds that:

1. A material statement contained in an application is or was false or misleading;

2. The applicant or licensee, or a person in a position of management and control thereof or of the licensed activity, does not have good moral character, necessary experience or competency, adequate facilities, equipment, process controls, or security to process, distribute, transport or sell cannabinoid hemp, hemp extract or products derived therefrom;

3. After appropriate notice and opportunity, the applicant or licensee has failed or refused to produce any records or provide any information required by this article or the regulations promulgated pursuant thereto;

4. The licensee has conducted activities outside of those activities permitted on its license; or

5. The applicant or licensee, or any officer, director, partner, or any other person exercising any position of management or control there-

1 of or of the licensed activity has willfully failed to comply with any
2 of the provisions of this article or regulations under it and other laws
3 of this state applicable to the licensed activity.

4 § 102. Record keeping and tracking. Every licensee shall keep, in such
5 form as the executive director may direct, such relevant records as may
6 be required pursuant to regulations under this article.

7 § 103. Packaging and labeling of cannabinoid hemp and hemp extract. 1.
8 Cannabinoid hemp processors shall be required to provide appropriate
9 label warning to consumers, and restricted from making unapproved label
10 claims, as determined by the office, concerning the potential impact on
11 or benefit to human health resulting from the use of cannabinoid hemp,
12 hemp extract and products derived therefrom for human consumption, which
13 labels shall be affixed to those products when sold, pursuant to rules
14 and regulations that the office may adopt.

15 2. The office may, by rules and regulations, require processors to
16 establish a code, including, but not limited to QR code, for labels and
17 establish methods and procedures for determining, among other things,
18 serving sizes or dosages for cannabinoid hemp, hemp extract and products
19 derived therefrom, active cannabinoid concentration per serving size,
20 number of servings per container, and the growing region, state or coun-
21 try of origin if not from the United States. Such rules and regulations
22 may require an appropriate fact panel that incorporates data regarding
23 serving sizes and potency thereof.

24 3. The packaging, sale, or possession of products derived from canna-
25 binoid hemp or hemp extract used for human consumption not labeled or
26 offered in conformity with regulations under this section shall be
27 grounds for the seizure or quarantine of the product, the imposition of
28 a civil penalty against a processor or retailer, and the suspension,
29 revocation or suspension of a license, in accordance with this article.

30 § 104. Processing of cannabinoid hemp and hemp extract. 1. No process-
31 or shall sell or agree to sell or deliver in the state any cannabinoid
32 hemp, hemp extract or product derived therefrom, used for human consump-
33 tion, except in sealed containers containing quantities in accordance
34 with size standards pursuant to rules adopted by the office. Such
35 containers shall have affixed thereto such labels as may be required by
36 the rules of the office.

37 2. Processors shall take such steps necessary to ensure that the
38 cannabinoid hemp or hemp extract used in their processing operation has
39 only been grown with pesticides that are registered by the department of
40 environmental conservation or that specifically meet the United States
41 environmental protection agency registration exemption criteria for
42 minimum risk, used in compliance with rules, regulations, standards and
43 guidelines issued by the department of environmental conservation for
44 pesticides.

45 3. All cannabinoid hemp, hemp extract and products derived therefrom
46 used for human consumption shall be extracted and processed in accord-
47 ance with good manufacturing processes for the product category pursuant
48 to Part 117 or Part 111 of title 21 of the code of federal regulations,
49 as may be defined, modified and decided upon by the office, provided
50 that such rules shall be in conformity to the extent practicable with
51 neighboring states.

52 4. As necessary to protect human health, the office shall have the
53 authority to: (a) regulate and prohibit specific ingredients, excipients
54 or methods used in processing cannabinoid hemp, hemp extract and
55 products derived therefrom; and (b) prohibit, or expressly allow,

1 certain products or product classes derived from cannabinoid hemp or
2 hemp extract, to be processed.

3 § 105. Laboratory testing. Every cannabinoid hemp processor shall
4 contract with an independent commercial laboratory to test the hemp
5 extract and products produced by the licensed processor. The executive
6 director, in consultation with the commissioner of the department of
7 health, shall establish the necessary qualifications or certifications
8 required for such laboratories used by licensees. The board is author-
9 ized to issue rules and regulations consistent with this article estab-
10 lishing the testing required, the reporting of testing results and the
11 form for reporting such laboratory testing results. The office has
12 authority to require licensees to submit any cannabinoid hemp, hemp
13 extract or product derived therefrom, processed or offered for sale
14 within the state, for testing. This section shall not obligate the
15 office, in any way, to perform any testing on hemp, cannabinoid hemp,
16 hemp extract or product derived therefrom. The office shall be author-
17 ized to establish consortia or cooperative agreements with neighboring
18 states to effectuate this section.

19 § 106. New York hemp product. The office may establish and adopt offi-
20 cial grades and standards for cannabinoid hemp, hemp extract and
21 products derived therefrom, as he or she may deem advisable, which are
22 produced for sale in this state and, from time to time, may amend or
23 modify such grades and standards.

24 § 107. Penalties. Notwithstanding the provision of any law to the
25 contrary, the failure to comply with a requirement of this article, or a
26 regulation thereunder, may be punishable by a civil penalty of not more
27 than one thousand dollars for a first violation; not more than five
28 thousand dollars for a second violation within three years; and not more
29 than ten thousand dollars for a third violation and each subsequent
30 violation thereafter, within three years.

31 § 108. Hemp workgroup. The executive director, in consultation with
32 the commissioner of the department of agriculture and markets and the
33 commissioner of health, may appoint a New York state hemp and hemp
34 extract workgroup, composed of growers, researchers, producers, process-
35 ors, manufacturers and trade associations, to make recommendations for
36 the industrial hemp and cannabinoid hemp programs, state, regional, and
37 federal policies and policy initiatives, and opportunities for the
38 promotion and marketing of cannabinoid hemp and hemp extract as consist-
39 ent with federal and state laws, rules and regulations.

40 § 109. Prohibitions. 1. Except as authorized by the United States food
41 and drug administration, the processing of cannabinoid hemp or hemp
42 extract used for human consumption is prohibited within the state unless
43 the processor is licensed under this article.

44 2. Cannabinoid hemp and hemp extracts used for human consumption and
45 grown or processed outside the state shall not be distributed or sold at
46 retail within the state, unless they meet all standards established for
47 cannabinoid hemp under state law and regulations.

48 3. The retail sale of cannabinoid hemp is prohibited in this state
49 unless the retailer is licensed under this article.

50 § 110. Special use permits. The office shall have the authority to
51 issue temporary permits for carrying on any activity related to cannabi-
52 noid hemp, hemp extract and products derived therefrom, licensed under
53 this article. The executive director may set reasonable fees for such
54 permits, to establish the periods during which such permits are valid,
55 and to make rules and regulations to implement this section.

§ 111. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

ARTICLE 6

GENERAL PROVISIONS

Section 125. General prohibitions and restrictions.

126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis.

127. Protections for the use of cannabis; unlawful discriminations prohibited.

128. Registrations and licenses.

129. Laboratory testing permit.

130. Special use permits.

132. Municipal control and preemption.

133. Office to be necessary party to certain proceedings.

134. Penalties for violation of this chapter.

135. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation.

136. Lawful actions pursuant to this chapter.

137. Review by courts.

138. Illicit cannabis.

139. Injunction for unlawful manufacture, sale, distribution, or consumption of cannabis.

140. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products.

141. Access to criminal history information through the division of criminal justice services.

§ 125. General prohibitions and restrictions. 1. No person shall cultivate, process, or distribute for sale or sell at wholesale or retail any cannabis, adult-use cannabis product, medical cannabis or cannabinoid hemp within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter.

2. No registered organization, licensee, or permittee shall sell, or agree to sell or deliver in this state any cannabis or cannabinoid hemp for the purposes of resale to any person who is not duly registered, licensed or permitted pursuant to this chapter to sell such product, at wholesale or retail, as the case may be, at the time of such agreement and sale.

3. No registered organization, licensee, or permittee shall employ, or permit to be employed, or shall allow to work, on any premises registered or licensed for retail sale hereunder, any person under the age of eighteen years in any capacity where the duties of such person require or permit such person to sell, dispense or handle cannabis.

4. No registered organization, licensee, or permittee shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any adult-use cannabis, cannabis product, medical cannabis or cannabinoid hemp on credit unless authorized by the executive director; except that a registered organization, licensee or permittee may accept third party credit cards for the sale of any cannabis, cannabis product, medical cannabis or cannabinoid hemp for which it is registered, licensed or permitted to dispense or sell to patients or cannabis

1 consumers. This includes, but is not limited to, any consignment sale of
2 any kind.

3 5. No registered organization, licensee, or permittee shall cease to
4 be operated as a bona fide or legitimate premises within the contem-
5 plation of the registration, license, or permit issued for such prem-
6 ises, as determined within the judgment of the office.

7 6. No registered organization, licensee, or permittee shall refuse,
8 nor any person holding a registration, license, or permit refuse, nor
9 any officer or director of any corporation or organization holding a
10 registration, license, or permit refuse, to appear and/or testify under
11 oath at an inquiry or hearing held by the office, with respect to any
12 matter bearing upon the registration, license, or permit, the conduct of
13 any people at the licensed premises, or bearing upon the character or
14 fitness of such registrant, licensee, or permittee to continue to hold
15 any registration, license, or permit. Nor shall any of the above offer
16 false testimony under oath at such inquiry or hearing.

17 7. No registered organization, licensee, or permittee shall engage,
18 participate in, or aid or abet any violation or provision of this chap-
19 ter, or the rules or regulations of the office.

20 8. The proper conduct of registered, licensed, or permitted premises
21 is essential to the public interest. Failure of a registered organiza-
22 tion, licensee, or permittee to exercise adequate supervision over the
23 registered, licensed, or permitted location poses a substantial risk not
24 only to the objectives of this chapter but imperils the health, safety,
25 and welfare of the people of this state. It shall be the obligation of
26 each person registered, licensed, or permitted under this chapter to
27 ensure that a high degree of supervision is exercised over any and all
28 conduct at any registered, licensed, or permitted location at any and
29 all times in order to safeguard against abuses of the privilege of being
30 registered, licensed, or permitted, as well as other violations of law,
31 statute, rule, or regulation. Persons registered, licensed, or permitted
32 shall be held strictly accountable for any and all violations that occur
33 upon any registered, licensed, or permitted premises, and for any and
34 all violations committed by or permitted by any manager, agent or
35 employee of such registered, licensed, or permitted person.

36 9. It shall be unlawful for any person, partnership or corporation
37 operating a place for profit or pecuniary gain, with a capacity for the
38 assemblage of twenty or more persons to permit a person or persons to
39 come to the place of assembly for the purpose of cultivating, process-
40 ing, distributing, or retail distribution or sale of cannabis on said
41 premises. This includes, but is not limited, to, cannabis that is either
42 provided by the operator of the place of assembly, his agents, servants
43 or employees, or cannabis that is brought onto said premises by the
44 person or persons assembling at such place, unless an appropriate regis-
45 tration, license, or permit has first been obtained from the office of
46 cannabis management by the operator of said place of assembly.

47 10. As it is a privilege under the law to be registered, licensed, or
48 permitted to cultivate, process, distribute, traffic, or sell cannabis,
49 the office may impose any such further restrictions upon any registrant,
50 licensee, or permittee in particular instances as it deems necessary to
51 further state policy and best serve the public interest. A violation or
52 failure of any person registered, licensed, or permitted to comply with
53 any condition, stipulation, or agreement, upon which any registration,
54 license, or permit was issued or renewed by the office shall subject the
55 registrant, licensee, or permittee to suspension, cancellation, revoca-
56 tion, and/or civil penalties as determined by the office.

11. No adult-use cannabis or medical cannabis may be imported to, or exported out of, New York state by a registered organization, licensee or person holding a license and/or permit pursuant to this chapter, until such time as it may become legal to do so under federal law. Should it become legal to do so under federal law, the board is granted the power to promulgate such rules and regulations as it deems necessary to protect the public and the policy of the state.

12. No registered organization, licensee or any of its agents, servants or employees shall peddle any cannabis product, medical cannabis or cannabinoid hemp from house to house by means of a truck or otherwise, where the sale is consummated and delivery made concurrently at the residence or place of business of a cannabis consumer. This subdivision shall not prohibit the delivery by a registered organization to certified patients or their designated caregivers, pursuant to article three of this chapter.

13. No licensee shall employ any canvasser or solicitor for the purpose of receiving an order from a certified patient, designated caregiver or cannabis consumer for any cannabis product, medical cannabis or cannabinoid hemp at the residence or place of business of such patient, caregiver or consumer, nor shall any licensee receive or accept any order, for the sale of any cannabis product, medical cannabis or cannabinoid hemp which shall be solicited at the residence or place of business of a patient, caregiver or consumer. This subdivision shall not prohibit the solicitation by a distributor of an order from any licensee at the licensed premises of such licensee.

14. No premises registered, licensed, or permitted by the office shall:

- (a) permit or allow any gambling on the premises;
- (b) permit or allow the premises to become disorderly;
- (c) permit or allow the use, by any person, of any fireworks or other pyrotechnics on the premises; or
- (d) permit or allow to appear as an entertainer, on any part of the premises registered, licensed, or permitted, any person under the age of eighteen years.

§ 126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis. 1. A registration, license, or permit issued to any person, pursuant to this chapter, for any registered, licensed, or permitted premises shall not be transferable to any other person, to any other location or premises, or to any other building or part of the building containing the licensed premises except in the discretion of the office. All privileges granted by any registration, license, or permit shall be available only to the person therein specified, and only for the premises licensed and no other except if authorized by the office. Provided, however, that the provisions of this section shall not be deemed to prohibit an application or request for approval for a registration or license as provided for in this chapter. A violation of this section shall subject the registration, license, or permit to revocation for cause.

2. Where a registration or license for premises has been revoked, the office in its discretion may refuse to accept an application from, or issue a registration, license, or permit under this chapter to, any individual, business, or entity connected to the revoked registration or license, or for such premises or for any part of the building containing such premises and connected therewith.

3. In determining whether to issue such a proscription against granting any registration, license, or permit for such five-year period, in

1 addition to any other factors deemed relevant to the office, the office
2 shall, in the case of a license revoked due to the illegal sale of
3 cannabis to a minor, determine whether the proposed subsequent licensee
4 has obtained such premises through an arm's length transaction, and, if
5 such transaction is not found to be an arm's length transaction, the
6 office shall deny the issuance of such license.

7 4. For purposes of this section, "arm's length transaction" shall mean
8 a sale of a fee of all undivided interests in real property, lease,
9 management agreement, or other agreement giving the applicant control
10 over the cannabis at the premises, or any part thereof, in the open
11 market, between an informed and willing buyer and seller where neither
12 is under any compulsion to participate in the transaction, unaffected by
13 any unusual conditions indicating a reasonable possibility that the sale
14 was made for the purpose of permitting the original licensee to avoid
15 the effect of the revocation. The following sales shall be presumed not
16 to be arm's length transactions unless adequate documentation is
17 provided demonstrating that the sale, lease, management agreement, or
18 other agreement giving the applicant control over the cannabis at the
19 premises, was not conducted, in whole or in part, for the purpose of
20 permitting the original licensee to avoid the effect of the revocation:

21 (a) a sale between relatives;
22 (b) a sale between related companies or partners in a business; or
23 (c) a sale, lease, management agreement, or other agreement giving the
24 applicant control over the cannabis at the premises, affected by other
25 facts or circumstances that would indicate that the sale, lease, manage-
26 ment agreement, or other agreement giving the applicant control over the
27 cannabis at the premises, is entered into for the primary purpose of
28 permitting the original licensee to avoid the effect of the revocation.

29 5. No registered organization, licensee or permittee shall transport
30 cannabis products or medical cannabis except in vehicles owned and oper-
31 ated by such registered organization, licensee or permittee, or hired
32 and operated by such registered organization, licensee or permittee from
33 a trucking or transportation company permitted and registered with the
34 office.

35 6. No common carrier or person operating a transportation facility in
36 this state, other than the United States government, shall receive for
37 transportation or delivery within the state any cannabis products or
38 medical cannabis unless the shipment is accompanied by copy of a bill of
39 lading, or other document, showing the name and address of the consig-
40 nor, the name and address of the consignee, the date of the shipment,
41 and the quantity and kind of cannabis products or medical cannabis
42 contained therein.

43 § 127. Protections for the use of cannabis; unlawful discriminations
44 prohibited. 1. No person, registered organization, licensee or permit-
45 tee, or agent or contractor of a registered organization, licensee or
46 permittee shall be subject to arrest, prosecution, or penalty in any
47 manner, or denied any right or privilege, including but not limited to
48 civil liability or disciplinary action by a business or occupational or
49 professional licensing board or office, solely for conduct permitted
50 under this chapter. For the avoidance of doubt, the appellate division
51 of the supreme court of the state of New York, and any disciplinary or
52 character and fitness committees established by them are occupational
53 and professional licensing boards within the meaning of this section.
54 State or local law enforcement agencies shall not cooperate with or
55 provide assistance to the government of the United States or any agency
56 thereof in enforcing the federal controlled substances act, 21 U.S.C. et

1 seq., solely for actions consistent with this chapter, except pursuant
2 to an order of a court of competent jurisdiction.

3 2. No school or landlord may refuse to enroll or lease to and may not
4 otherwise penalize a person solely for conduct allowed under this chap-
5 ter, except as exempted:

6 (a) if failing to do so would cause the school or landlord to lose a
7 monetary or licensing related benefit under federal law or regulations;

8 (b) if the institution has adopted a code of conduct prohibiting
9 cannabis use on the basis of religious belief; or

10 (c) if a property is registered with the New York smoke-free housing
11 registry, it is not required to permit the smoking of cannabis products
12 on its premises.

13 3. For the purposes of medical care, including organ transplants, a
14 certified patient's authorized use of medical cannabis must be consid-
15 ered the equivalent of the use of any other medication under the direc-
16 tion of a practitioner and does not constitute the use of an illicit
17 substance or otherwise disqualify a registered qualifying patient from
18 medical care.

19 4. An employer may implement policies prohibiting the use or
20 possession of cannabis in accordance with section two hundred one-d of
21 the labor law, provided such policies are in writing as part of an
22 established workplace policy, uniformly applied to all employees, and
23 the employer gives prior written notice of such policies to employees.

24 5. An employer may take disciplinary or adverse employment action
25 against an employee, including termination of employment, for violating
26 an established workplace policy adopted under subdivision four of this
27 section, or if the results of a drug test administered in accordance
28 with applicable state and local law demonstrate that the employee was
29 impaired by or under the influence of cannabis while in the workplace or
30 during the performance of work. For the purposes of this subdivision, a
31 drug test that solely yields a positive result for cannabis metabolites
32 shall not be construed as proof that an employee is under the influence
33 of or impaired by cannabis unless the test yields a positive result for
34 active tetrahydrocannabinol, delta-9-tetrahydrocannabinol, delta-8-tet-
35 rahydrocannabinol, or other active cannabinoid found in cannabis which
36 causes impairment.

37 6. Nothing in this chapter permits any person to undertake any task
38 under the influence of cannabis when doing so would constitute negli-
39 gence or professional malpractice, jeopardize workplace safety, or to
40 operate, navigate or be in actual physical control of any motor vehicle
41 or other transport vehicle, aircraft, motorboat, machinery or equipment,
42 or firearms under the influence of cannabis.

43 7. A person currently under parole, probation or other state super-
44 vision, or released on bail awaiting trial may not be punished or other-
45 wise penalized for conduct allowed under this chapter.

46 § 128. Registrations and licenses. 1. No registration or license
47 shall be transferable or assignable except that notwithstanding any
48 other provision of law, the registration or license of a sole proprietor
49 converting to corporate form, where such proprietor becomes the sole
50 stockholder and only officer and director of such new corporation, may
51 be transferred to the subject corporation if all requirements of this
52 chapter remain the same with respect to such registration or license as
53 transferred and, further, the registered organization or licensee shall
54 transmit to the office, within ten days of the transfer of license
55 allowable under this subdivision, on a form prescribed by the office,
56 notification of the transfer of such license.

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

3. Licenses issued under this chapter shall contain, in addition to any further information or material to be prescribed by the rules of the office, the following information:

(a) name of the person to whom the license is issued;

(b) kind of license and what kind of traffic in cannabis is thereby permitted;

(c) description by street and number, or otherwise, of licensed premises; and

(d) a statement in substance that such license shall not be deemed a property or vested right, and that it may be revoked at any time pursuant to law.

§ 129. Laboratory testing permit. 1. The executive director, in consultation with the commissioner of health, shall approve and permit one or more independent cannabis testing laboratories to test medical cannabis, adult-use cannabis and/or cannabinoid hemp.

2. To be permitted as an independent cannabis laboratory, a laboratory must apply to the office, on a form and in a manner prescribed by the office, and must demonstrate the following to the satisfaction of the executive director:

(a) the owners and directors of the laboratory are of good moral character;

(b) the laboratory and its staff has the skills, resources and expertise needed to accurately and consistently perform testing required for adult-use cannabis, medical cannabis and/or cannabinoid hemp;

(c) the laboratory has in place and will maintain adequate policies, procedures, and facility security to ensure proper: collection, labeling, accessioning, preparation, analysis, result reporting, disposal and storage of adult-use cannabis, medical cannabis and/or cannabinoid hemp;

(d) the laboratory is physically located in New York state except for laboratories only testing cannabinoid hemp or as authorized in regulation; and

(e) the laboratory meets the requirements prescribed by this chapter and by regulation.

3. The owner of a laboratory testing permit under this section shall not hold a registration or license in any category of this chapter and shall not have any direct or indirect ownership interest in such registered organization or licensee. No board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization or licensee under this chapter, or such person's immediate family member, shall have an interest or voting rights in any laboratory testing permittee.

4. The office shall require that the permitted laboratory report testing results to the office in a manner, form and timeframe as determined by the executive director.

5. The board is authorized to promulgate regulations, requiring permitted laboratories to perform certain tests and services.

6. The executive director is authorized to enter into contracts or memoranda of understanding with any other state for the purposes of aligning laboratory testing requirements or establishing best practices in testing of cannabis.

§ 130. Special use permits. The office is hereby authorized to issue the following kinds of permits for carrying on activities consistent with the policy and purpose of this chapter with respect to cannabis.

1 The executive director has the authority to set fees for all permits
2 issued pursuant to this section, to establish the periods during which
3 permits are authorized.

4 1. Industrial cannabis permit - to purchase cannabis for use in the
5 manufacture and sale of any of the following, when such cannabis is not
6 otherwise suitable for consumption purposes, namely: (a) apparel, ener-
7 gy, paper, and tools; (b) scientific, chemical, mechanical and indus-
8 trial products; or (c) any other industrial use as determined by the
9 executive director in regulation.

10 2. Nursery permit - to produce clones, immature plants, seeds, and
11 other agricultural products used specifically for the planting, propa-
12 gation, and cultivation of cannabis, and to sell such to licensed
13 adult-use cultivators, registered organizations, and certified patients
14 or their designated caregivers.

15 3. Solicitor's permit - to offer for sale or to solicit orders for the
16 sale of any cannabis products and/or medical cannabis, as a represen-
17 tative of a registered organization or licensee under this chapter.

18 4. Broker's permit - to act as a broker in the purchase and sale of
19 cannabis products and/or medical cannabis for a fee or commission, for
20 or on behalf of a person authorized to cultivate, process, distribute or
21 dispense cannabis products, medical cannabis or hemp cannabis within the
22 state.

23 5. Trucking permit - to allow for the trucking or transportation of
24 cannabis products and/or medical cannabis by a person other than a
25 registered organization or licensee under this chapter.

26 6. Warehouse permit - to allow for the storage of cannabis, cannabis
27 products, or medical cannabis at a location not otherwise registered or
28 licensed by the office.

29 7. Delivery permit - to authorize licensed adult-use cannabis dispen-
30 saries or third-parties to deliver adult-use cannabis and cannabis
31 products directly to cannabis consumers.

32 8. Temporary retail cannabis permit - to authorize the retail sale of
33 adult-use cannabis to cannabis consumers, for a limited purpose or dura-
34 tion.

35 9. Caterer's permit - to authorize the service of cannabis products at
36 a function, occasion or event in a hotel, restaurant, club, ballroom or
37 other premises, which shall authorize within the hours fixed by the
38 office, during which cannabis may lawfully be sold or served on the
39 premises in which such function, occasion or event is held.

40 10. Packaging permit - to authorize a licensed cannabis distributor to
41 sort, package, label and bundle cannabis products from one or more
42 registered organizations or licensed processors, on the premises of the
43 licensed cannabis distributor or at a warehouse for which a permit has
44 been issued under this section.

45 11. Miscellaneous permits - to purchase, receive or sell cannabis,
46 cannabis products or medical cannabis, or receipts, certificates,
47 contracts or other documents pertaining to cannabis, cannabis products,
48 or medical cannabis, or to provide specialized or certified ancillary
49 services to support the implementation and purpose of this chapter, in
50 cases not expressly provided for by this chapter, when in the judgment
51 of the office it would be appropriate and consistent with the policy and
52 purpose of this chapter.

53 § 132. Municipal control and preemption. 1. The provisions of article
54 four of this chapter, authorizing the cultivation, processing, distrib-
55 ution and sale of adult-use cannabis to cannabis consumers, shall not be
56 applicable to a county, or city having a population of one hundred thou-

1 sand or more residents, which adopts a local law, ordinance or resol-
2 ution by a majority vote of its governing body, to completely prohibit
3 the establishment or operation of one or more types of licenses
4 contained in article four of this chapter, within the jurisdiction of
5 such county or city.

6 2. Except as provided for in subdivision one of this section, all
7 counties, towns, cities and villages are hereby preempted from adopting
8 any rule, ordinance, regulation or prohibition pertaining to the opera-
9 tion or licensure of registered organizations, adult-use cannabis
10 licenses or cannabinoid hemp licenses. However, counties, cities, towns
11 and villages, as applicable, may pass ordinances or regulations govern-
12 ing the hours of operation and location of licensed adult-use cannabis
13 retail dispensaries, provided such ordinances or regulations do not make
14 the operation of such licensed retail dispensaries unreasonably imprac-
15 ticable.

16 3. Local rules, ordinances, regulations or prohibitions enacted by a
17 county, city, town, or village shall not require an adult-use cannabis
18 applicant or licensee to enter into a community host agreement or pay
19 any consideration to the municipality other than reasonable zoning and
20 permitting fees.

21 4. Notwithstanding subdivision one of this section, adult-use canna-
22 bis, medical cannabis and cannabinoid hemp farming and farm operations,
23 on land located within an agricultural district, shall be deemed an
24 approved activity under the relevant county, city, town, or village land
25 use or zoning ordinances, rules, or regulations, inclusive of all neces-
26 sary ancillary farm operations as permitted by license pursuant to this
27 chapter.

28 § 133. Office to be necessary party to certain proceedings. The
29 office shall be made a party to all actions and proceedings affecting in
30 any manner the possession, ownership or transfer of a registration,
31 license or permit to operate within a municipality; to all injunction
32 proceedings; and to all other civil actions or proceedings which in any
33 manner affect the enjoyment of the privileges or the operation of the
34 restrictions provided for in this chapter.

35 § 134. Penalties for violation of this chapter. 1. Any person who
36 cultivates for sale or sells cannabis, cannabis products, medical canna-
37 bis or cannabinoid hemp without having an appropriate registration,
38 license or permit therefor, or whose registration, license, or permit
39 has been revoked, surrendered or cancelled, upon first conviction there-
40 of shall be guilty of a misdemeanor, punishable by a fine not more than
41 five thousand dollars per violation, per day, and upon second conviction
42 thereof shall be guilty of a class A misdemeanor punishable by a fine
43 not more than ten thousand dollars per violation, per day, or a sentence
44 of imprisonment not to exceed thirty days and upon all subsequent
45 convictions thereof shall be an E felony punishable by a fine not more
46 than twenty-five thousand dollars per violation, per day or a sentence
47 of imprisonment not to exceed one year.

48 2. Any registered organization or licensee, whose registration or
49 license has been suspended pursuant to the provisions of this chapter,
50 who sells cannabis, cannabis products, medical cannabis or cannabinoid
51 hemp during the suspension period, upon conviction thereof shall be
52 guilty of an A misdemeanor, punishable by a fine of not more
53 than five thousand dollars per violation, per day.

54 3. Any person who shall make any false statement in the application
55 for or renewal of a registration, license or a permit under this chapter

1 shall be guilty of a misdemeanor, and upon conviction thereof shall be
2 punishable by a fine of not more than five thousand dollars.

3 4. Any violation by any person of any provision of this chapter for
4 which no punishment or penalty is otherwise provided shall be a misde-
5 meanor.

6 5. Nothing in this section shall prohibit the office from suspending,
7 revoking, or denying a license, permit, registration, or application in
8 addition to the penalties prescribed herein.

9 § 135. Revocation of registrations, licenses and permits for cause;
10 procedure for revocation or cancellation. 1. Any registration, license
11 or permit issued pursuant to this chapter may be revoked, cancelled,
12 suspended and/or subjected to the imposition of a civil penalty for
13 cause, and must be revoked for the following causes:

14 (a) the registered organization, licensee, permittee or his or her
15 agent or employee has sold any illegal cannabis on the premises regis-
16 tered, licensed or permitted;

17 (b) for transferring, assigning or hypothecating a registration,
18 license or permit without prior written approval of the office;

19 (c) for failing to follow testing requirements prescribed under this
20 chapter or falsifying testing results;

21 (d) for knowingly distributing cannabis products to persons under
22 twenty-one years of age;

23 (e) for diverting, inverting or trafficking in cannabis to or from an
24 illegal and unlicensed, registered, or permitted source in violation of
25 this chapter; or

26 (f) for any other violation established in regulation which poses an
27 imminent and substantial threat to public health, public safety, or the
28 integrity of the state's cannabis regulatory structure.

29 2. Notwithstanding the issuance of a registration, license or permit
30 by way of renewal, the office may revoke, cancel or suspend such regis-
31 tration, license or permit and/or may impose a civil penalty against any
32 holder of such registration, license or permit, as prescribed by this
33 section, for causes or violations occurring during a license period
34 which occurred prior to the issuance of such registration, license or
35 permit.

36 3. (a) As used in this section, the term "for cause" shall also
37 include the existence of a sustained and continuing pattern of miscon-
38 duct, failure to adequately prevent diversion or disorder on or about
39 the registered, licensed or permitted premises, or in the area in front
40 of or adjacent to the registered or licensed premises, or in any parking
41 lot provided by the registered organization or licensee for use by
42 registered organization or licensee's patrons, which, in the judgment of
43 the office, adversely affects or tends to affect the protection, health,
44 welfare, safety, or repose of the inhabitants of the area in which the
45 registered or licensed premises is located, or results in the licensed
46 premises becoming a focal point for police attention, or is offensive to
47 public decency.

48 (b) (i) As used in this section, the term "for cause" shall also
49 include deliberately misleading the authority:

50 (A) as to the nature and character of the business to be operated by
51 the registered organization, licensee or permittee; or

52 (B) by substantially altering the nature or character of such business
53 during the registration or licensing period without seeking appropriate
54 approvals from the office.

55 (ii) As used in this subdivision, the term "substantially altering the
56 nature or character" of such business shall mean any significant alter-

1 ation in the scope of business activities conducted by a registered
2 organization, licensee or permittee that would require obtaining an
3 alternate form of registration, license or permit.

4 4. As used in this chapter, the existence of a sustained and continu-
5 ing pattern of misconduct, failure to adequately prevent diversion or
6 disorder on or about the premises may be presumed upon the third inci-
7 dent reported to the office by a law enforcement agency, or discovered
8 by the office during the course of any investigation, of misconduct,
9 diversion or disorder on or about the premises or related to the opera-
10 tion of the premises.

11 5. The denial, revocation, or suspension of any application, license,
12 permit, or registration issued to or submitted by a person, business, or
13 entity may also be grounds for the denial, suspension, or revocation of
14 any and all other licenses, permits, or registrations applied for by, or
15 issued to said person, business, or entity if the executive director
16 determines it necessary to protect public health and safety or that the
17 person, business, and/or entities involved no longer possess the good
18 moral character required to participate in the cannabis industry.

19 6. Any registration, license or permit issued by the office pursuant
20 to this chapter may be revoked, cancelled or suspended and/or be
21 subjected to the imposition of a monetary penalty in the manner
22 prescribed by this section.

23 7. The office may on its own initiative, or on complaint of any
24 person, institute proceedings to revoke, cancel or suspend any adult-use
25 cannabis retail dispensary license or adult-use cannabis on-site
26 consumption license and may impose a civil penalty against the licensee
27 after a hearing at which the licensee shall be given an opportunity to
28 be heard. Such hearing shall be held in such manner and upon such notice
29 as may be prescribed by regulation.

30 8. All other registrations, licenses or permits issued under this
31 chapter may be revoked, cancelled, suspended and/or made subject to the
32 imposition of a civil penalty by the office after a hearing to be held
33 in such manner and upon such notice as may be prescribed in regulation
34 by the executive director.

35 9. Notwithstanding any other provision of this chapter, the office
36 may: (a) revoke or refuse to issue any class or type of license, permit,
37 or registration if it determines that failing to do so would conflict
38 with any federal law or guidance pertaining to regulatory, enforcement
39 and other systems that states, businesses, or other institutions may
40 implement to mitigate the potential for federal intervention or enforce-
41 ment. This provision shall not be construed to prohibit the overall
42 implementation and administration of this chapter on account of the
43 federal classification of marijuana or cannabis as a schedule I
44 substance or any other federal prohibitions or restrictions; and

45 (b) the board may adopt rules and regulations based on federal guid-
46 ance, provided those rules and regulations are designed to comply with
47 federal guidance and mitigate federal enforcement against the registra-
48 tions, licenses, or permits issued under this chapter, or the cannabis
49 industry as a whole. This may include regulations which permit the shar-
50 ing of licensee, registrant, or permit holder information with desig-
51 nated banking or financial institutions, provided these regulations are
52 designed to aid cannabis industry participants' access to banking and
53 financial services.

54 § 136. Lawful actions pursuant to this chapter. 1. Contracts related
55 to the operation of registered organizations, licenses and permits under
56 this chapter shall be lawful and shall not be deemed unenforceable on

1 the basis that the actions permitted pursuant to the registration,
2 license or permit are prohibited by federal law.

3 2. The following actions are not unlawful as provided under this chap-
4 ter, shall not be an offense under any state or local law, and shall not
5 result in any civil fine, seizure, or forfeiture of assets against any
6 person acting in accordance with this chapter:

7 (a) Actions of a registered organization, licensee, or permittee, or
8 the employees or agents of such registered organization, licensee or
9 permittee, as permitted by this chapter and consistent with rules and
10 regulations of the office, pursuant to a valid registration, license or
11 permit issued by the office.

12 (b) Actions of those who allow property to be used by a registered
13 organization, licensee, or permittee, or the employees or agents of such
14 registered organization, licensee or permittee, as permitted by this
15 chapter and consistent with rules and regulations of the office, pursu-
16 ant to a valid registration, license or permit issued by the office.

17 (c) Actions of any person or entity, their employees, or their agents
18 providing a service to a registered organization, licensee, permittee or
19 a potential registered organization, licensee, or permittee, as permit-
20 ted by this chapter and consistent with rules and regulations of the
21 office, relating to the formation of a business.

22 (d) The purchase, possession, or consumption of cannabis, medical
23 cannabis and cannabinoid hemp, as permitted by this chapter and consist-
24 ent with rules and regulations of the office, obtained from a validly
25 registered, licensed or permitted retailer.

26 § 137. Review by courts. 1. The following actions by the office shall
27 be subject to review by the supreme court in the manner provided in
28 article seventy-eight of the civil practice law and rules:

29 (a) refusal by the office to issue a registration, license, or a
30 permit;

31 (b) the revocation, cancellation or suspension of a registration,
32 license, or permit by the office;

33 (c) the failure or refusal by the office to render a decision upon any
34 completed application for a license, registration or permit, or hearing
35 submitted to or held by the office within sixty days after such
36 submission of a completed application or hearing;

37 (d) the transfer by the office of a registration, license, or permit
38 to any other entity or premises, or refusal by the office to approve
39 such a transfer; and

40 (e) refusal to approve a corporate change in stockholders, stockhold-
41 ings, officers or directors.

42 2. No stay shall be granted pending the determination of such matter
43 except on notice to the office and only for a period of less than thirty
44 days. In no instance shall a stay be granted where the office has issued
45 a summary suspension of a registration, license, or permit for the
46 protection of the public health, safety, and welfare.

47 § 138. Illicit cannabis. 1. "Illicit cannabis" means and includes any
48 cannabis product or medical cannabis owned, cultivated, distributed,
49 bought, sold, packaged, rectified, blended, treated, fortified, mixed,
50 processed, warehoused, possessed or transported, on which any tax
51 required to have been paid under any applicable state law has not been
52 paid; or any adult-use cannabis or medical cannabis product the form,
53 packaging, or content of which is not permitted by the office, as appli-
54 cable.

55 2. Any person who shall knowingly possess or have under his or her
56 control any illicit cannabis is guilty of a misdemeanor.

1 3. Any person who shall knowingly barter or exchange with, or sell,
2 give or offer to sell or to give another any illicit cannabis is guilty
3 of a class A misdemeanor.

4 4. Any person who shall possess or have under his or her control or
5 transport any illicit cannabis with intent to barter or exchange with,
6 or to sell or give to another the same or any part thereof is guilty of
7 a class A misdemeanor. Such intent is presumptively established by proof
8 that the person knowingly possessed or had under his or her control one
9 or more ounces, or an equivalent amount as determined by the executive
10 director in regulation, of illicit cannabis. This presumption may be
11 rebutted.

12 5. Any person who, being the owner, lessee, or occupant of any room,
13 shed, tenement, booth or building, float or vessel, or part thereof,
14 knowingly permits the same to be used for the cultivation, processing,
15 distribution, purchase, sale, warehousing, transportation, or storage of
16 any illicit cannabis, is guilty of a misdemeanor.

17 § 139. Injunction for unlawful manufacturing, sale, distribution, or
18 consumption of cannabis. 1. If any person shall engage or participate
19 or be about to engage or participate in the cultivation, production,
20 distribution, traffic, or sale of cannabis products, medical cannabis or
21 cannabinoid hemp in this state without obtaining the appropriate regis-
22 tration, license, or permit therefor, or shall traffic in cannabis
23 products, medical cannabis or cannabinoid hemp contrary to any provision
24 of this chapter, or otherwise unlawfully, or shall traffic in illicit
25 cannabis or, operating either a place for profit or pecuniary gain, or a
26 not-for-profit basis, with a capacity for the assemblage of twenty or
27 more persons, shall permit a person or persons to come to such place of
28 assembly for the purpose of consuming cannabis products without having
29 the appropriate license or permit therefor, the office may present a
30 verified petition or complaint to a justice of the supreme court at a
31 special term of the supreme court of the judicial district in which such
32 city, village or town is situated, for an order enjoining such person
33 engaging or participating in such activity or from carrying on such
34 business. Such petition or complaint shall state the facts upon which
35 such application is based. Upon the presentation of the petition or
36 complaint, the justice or court may grant an order temporarily restrain-
37 ing any person from continuing to engage in conduct as specified in the
38 petition or complaint, and shall grant an order requiring such person to
39 appear before such justice or court at or before a special term of the
40 supreme court in such judicial district on the day specified therein,
41 not more than ten days after the granting thereof, to show cause why
42 such person should not be permanently enjoined from engaging or partic-
43 ipating in such activity or from carrying on such business, or why such
44 person should not be enjoined from carrying on such business contrary to
45 the provisions of this chapter. A copy of such petition or complaint and
46 order shall be served upon the person, in the manner directed by such
47 order, not less than three days before the return day thereof. On the
48 day specified in such order, the justice or court before whom the same
49 is returnable shall hear the proofs of the parties and may, if deemed
50 necessary or proper, take testimony in relation to the allegations of
51 the petition or complaint. If the justice or court is satisfied that
52 such person is about to engage or participate in the unlawful traffic in
53 cannabis, medical cannabis or cannabinoid hemp or has unlawfully culti-
54 vated, processed, or sold cannabis products, medical cannabis or canna-
55 binoid hemp without having obtained a registration or license or contra-
56 ry to the provisions of this chapter, or has trafficked in illicit

1 cannabis, or, is operating or is about to operate such place for profit
2 or pecuniary gain, with such capacity, and has permitted or is about to
3 permit a person or persons to come to such place of assembly for the
4 purpose of consuming cannabis products without having such appropriate
5 license, an order shall be granted enjoining such person from thereafter
6 engaging or participating in or carrying on such activity or business,
7 and allowing for the seizure of such illicit cannabis without limit. If,
8 after the entry of such an order in the county clerk's office of the
9 county in which the principal place of business of the corporation or
10 partnership is located, or in which the individual so enjoined resides
11 or conducts such business, and the service of a copy thereof upon such
12 person, or such substituted service as the court may direct, such
13 person, partnership or corporation shall, in violation of such order,
14 cultivate, process, distribute or sell cannabis products, medical canna-
15 bis or cannabinoid hemp, or illicit cannabis, or permit a person or
16 persons to come to such place of assembly for the purpose of consuming
17 cannabis products, such activity shall be deemed a contempt of court and
18 be punishable in the manner provided by the judiciary law, and, in addi-
19 tion to any such punishment, the justice or court before whom or which
20 the petition or complaint is heard, may, in his or its discretion, order
21 the seizure and forfeiture of any cannabis products and any fixtures,
22 equipment and supplies used in the operation or promotion of such ille-
23 gal activity and such property shall be subject to forfeiture pursuant
24 to law. Costs upon the application for such injunction may be awarded in
25 favor of and against the parties thereto in such sums as in the
26 discretion of the justice or court before whom or which the petition or
27 complaint is heard may seem proper.

28 2. The owner, lessor and lessee of a building, erection or place where
29 cannabis products, medical cannabis or cannabinoid hemp is unlawfully
30 cultivated, processed, distributed, sold, consumed or permitted to be
31 unlawfully cultivated, processed, distributed, sold or consumed may be
32 made a respondent or defendant in the proceeding or action.

33 3. The gift or transfer of cannabis in conjunction with the transfer
34 of any money, consideration or value, or another item or any other
35 services in an effort to evade laws, licensing, permitting, and regis-
36 tration requirements governing the sale of cannabis shall be considered
37 an unlawful activity under this chapter.

38 § 140. Persons forbidden to traffic cannabis; certain officials not to
39 be interested in manufacture or sale of cannabis products. 1. The
40 following are forbidden to traffic in cannabis:

41 (a) Except as provided in subdivision one-a of this section, a person
42 who has been convicted of a felony, unless subsequent to such conviction
43 such person shall have received an executive pardon therefor removing
44 this disability, a certificate of good conduct granted by the department
45 of corrections and community supervision, or a certificate of relief
46 from disabilities granted by the department of corrections and community
47 supervision or a court of this state pursuant to the provisions of arti-
48 cle twenty-three of the correction law to remove the disability under
49 this section because of such conviction;

50 (b) A person under the age of twenty-one years;

51 (c) A person who is not a citizen of the United States or an alien
52 lawfully admitted for permanent residence in the United States;

53 (d) A partnership or a corporation, unless each member of the partner-
54 ship, or each of the principal officers and directors of the corpo-
55 ration, is a citizen of the United States or an alien lawfully admitted
56 for permanent residence in the United States, not less than twenty-one

1 years of age, and has not been convicted of any felony, or if so
2 convicted has received, subsequent to such conviction, an executive
3 pardon therefor removing this disability a certificate of good conduct
4 granted by the department of corrections and community supervision, or a
5 certificate of relief from disabilities granted by the department of
6 corrections and community supervision or a court of this state pursuant
7 to the provisions of article twenty-three of the correction law to
8 remove the disability under this section because of such conviction;
9 provided however that a corporation which otherwise conforms to the
10 requirements of this section and chapter may be licensed if each of its
11 principal officers and more than one-half of its directors are citizens
12 of the United States or aliens lawfully admitted for permanent residence
13 in the United States; and provided further that a corporation organized
14 under the not-for-profit corporation law or the education law which
15 otherwise conforms to the requirements of this section and chapter may
16 be licensed if each of its principal officers and more than one-half of
17 its directors are not less than twenty-one years of age and none of its
18 directors are less than eighteen years of age; and provided further that
19 a corporation organized under the not-for-profit corporation law or the
20 education law and located on the premises of a college as defined by
21 section two of the education law which otherwise conforms to the
22 requirements of this section and chapter may be licensed if each of its
23 principal officers and each of its directors are not less than twenty-
24 one years of age;

25 (e) A person who shall have had any registration or license issued
26 under this chapter revoked for cause, until no less than two years from
27 the date of such revocation;

28 (f) A person not registered or licensed under the provisions of this
29 chapter, who has been convicted of a violation of this chapter, until no
30 less than two years from the date of such conviction; or

31 (g) A corporation or partnership, if any officer and director or any
32 partner, while not licensed under the provisions of this chapter, has
33 been convicted of a violation of this chapter, or has had a registration
34 or license issued under this chapter revoked for cause, until no less
35 than two years from the date of such conviction or revocation.

36 1-a. Notwithstanding the provision of subdivision one of this section,
37 a corporation holding a registration or license to traffic cannabis
38 products or medical cannabis may, upon conviction of a felony be auto-
39 matically forbidden to traffic in cannabis products or medical cannabis,
40 and the application for a registered organization or license by such a
41 corporation may be subject to denial, and the registration or license of
42 such a corporation may be subject to revocation or suspension by the
43 office pursuant, consistent with the provisions of article
44 twenty-three-A of the correction law. For any felony conviction by a
45 court other than a court of this state, the office may request the
46 department of corrections and community supervision to investigate and
47 review the facts and circumstances concerning such a conviction, and
48 such department shall, if so requested, submit its findings to the
49 office as to whether the corporation has conducted itself in a manner
50 such that discretionary review by the office would not be inconsistent
51 with the public interest. The department of corrections and community
52 supervision may charge the registered organization, licensee or appli-
53 cant a fee equivalent to the expenses of an appropriate investigation
54 under this subdivision. For any conviction rendered by a court of this
55 state, the office may request the corporation, if the corporation is
56 eligible for a certificate of relief from disabilities, to seek such a

1 certificate from the court which rendered the conviction and to submit
2 such a certificate as part of the office's discretionary review process.

3 2. Except as may otherwise be provided for in regulation, it shall be
4 unlawful for any police commissioner, police inspector, captain,
5 sergeant, roundsman, patrolman or other police official or subordinate
6 of any police department in the state, to be either directly or indi-
7 rectly interested in the cultivation, processing, distribution, or sale
8 of cannabis products or to offer for sale, or recommend to any regis-
9 tered organization or licensee any cannabis products. A person may not
10 be denied any registration or license granted under the provisions of
11 this chapter solely on the grounds of being the spouse of a public serv-
12 ant described in this section. The solicitation or recommendation made
13 to any registered organization or licensee, to purchase any cannabis
14 products by any police official or subordinate as hereinabove described,
15 shall be presumptive evidence of the interest of such official or subor-
16 dinate in the cultivation, processing, distribution, or sale of cannabis
17 products.

18 3. No elective village officer shall be subject to the limitations set
19 forth in subdivision two of this section unless such elective village
20 officer shall be assigned duties directly relating to the operation or
21 management of the police department or have direct authority over any
22 applicable local licensing requirements or approvals.

23 § 141. Access to criminal history information through the division of
24 criminal justice services. In connection with the administration of
25 this chapter, the office is authorized to request, receive and review
26 criminal history information through the division of criminal justice
27 services with respect to any person seeking a registration, license,
28 permit or authorization to cultivate, process, distribute or sell
29 medical cannabis or adult-use cannabis. At the office's request, each
30 person, member, principal and/or officer of the applicant shall submit
31 to the office his or her fingerprints in such form and in such manner as
32 specified by the division, for the purpose of conducting a criminal
33 history search and returning a report thereon in accordance with the
34 procedures and requirements established by the division pursuant to the
35 provisions of article thirty-five of the executive law, which shall
36 include the payment of the prescribed processing fees for the cost of
37 the division's full search and retain procedures and a national criminal
38 history record check. The executive director, or his or her designee,
39 shall submit such fingerprints and the processing fee to the division.
40 The division shall forward to the office a report with respect to the
41 applicant's previous criminal history, if any, or a statement that the
42 applicant has no previous criminal history according to its files. Fing-
43 erprints submitted to the division pursuant to this subdivision may also
44 be submitted to the federal bureau of investigation for a national crim-
45 inal history record check. If additional copies of fingerprints are
46 required, the applicant shall furnish them upon request.

47 § 3. Intentionally omitted.

48 § 4. Section 3302 of the public health law, as added by chapter 878 of
49 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and
50 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,
51 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,
52 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39
53 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of
54 subdivision 20, the opening paragraph of subdivision 22 and subdivision
55 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as
56 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-

vision 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) mono-terpene 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

1 (c) substances (other than food) intended to affect the structure or a
2 function of the body of man or animal. It does not include devices or
3 their components, parts, or accessories.

4 ~~[14.]~~ 13. "Federal agency" means the Drug Enforcement Administration,
5 United States Department of Justice, or its successor agency.

6 ~~[15.]~~ 14. "Federal controlled substances act" means the Comprehensive
7 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and
8 any act or acts amendatory or supplemental thereto or regulations
9 promulgated thereunder.

10 ~~[16.]~~ 15. "Federal registration number" means such number assigned by
11 the Federal agency to any person authorized to manufacture, distribute,
12 sell, dispense or administer controlled substances.

13 ~~[17.]~~ 16. "Habitual user" means any person who is, or by reason of
14 repeated use of any controlled substance for non-legitimate or unlawful
15 use is in danger of becoming, dependent upon such substance.

16 ~~[18.]~~ 17. "Institutional dispenser" means a hospital, veterinary
17 hospital, clinic, dispensary, maternity home, nursing home, mental
18 hospital or similar facility approved and certified by the department as
19 authorized to obtain controlled substances by distribution and to
20 dispense and administer such substances pursuant to the order of a prac-
21 titioner.

22 ~~[19.]~~ 18. "License" means a written authorization issued by the
23 department or the New York state department of education permitting
24 persons to engage in a specified activity with respect to controlled
25 substances.

26 ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-
27 gation, compounding, cultivation, conversion or processing of a
28 controlled substance, either directly or indirectly or by extraction
29 from substances of natural origin, or independently by means of chemical
30 synthesis, or by a combination of extraction and chemical synthesis, and
31 includes any packaging or repackaging of the substance or labeling or
32 relabeling of its container, except that this term does not include the
33 preparation, compounding, packaging or labeling of a controlled
34 substance:

35 (a) by a practitioner as an incident to his or her administering or
36 dispensing of a controlled substance in the course of his professional
37 practice; or

38 (b) by a practitioner, or by his or her authorized agent under his or
39 her supervision, for the purpose of, or as an incident to, research,
40 teaching, or chemical analysis and not for sale; or

41 (c) by a pharmacist as an incident to his or her dispensing of a
42 controlled substance in the course of his or her professional practice.

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

52 ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced
53 directly or indirectly by extraction from substances of vegetable
54 origin, or independently by means of chemical synthesis, or by a combi-
55 nation of extraction and chemical synthesis:

1 (a) opium and opiate, and any salt, compound, derivative, or prepara-
2 tion of opium or opiate;

3 (b) any salt, compound, isomer, derivative, or preparation thereof
4 which is chemically equivalent or identical with any of the substances
5 referred to in ~~[subdivision]~~ paragraph (a) of this subdivision, but not
6 including the isoquinoline alkaloids of opium;

7 (c) opium poppy and poppy straw.

8 ~~[23-]~~ 21. "Opiate" means any substance having an addiction-forming or
9 addiction-sustaining liability similar to morphine or being capable of
10 conversion into a drug having addiction-forming or addiction-sustaining
11 liability. It does not include, unless specifically designated as
12 controlled under section ~~[3306]~~ thirty-three hundred six of this ~~[arti-~~
13 ~~cle]~~ title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and
14 its salts (dextromethorphan). It does include its racemic and levorota-
15 tory forms.

16 ~~[24-]~~ 22. "Opium poppy" means the plant of the species *Papaver*
17 *somniferum* L., except its seeds.

18 ~~[25-]~~ 23. "Person" means individual, institution, corporation, govern-
19 ment or governmental subdivision or agency, business trust, estate,
20 trust, partnership or association, or any other legal entity.

21 ~~[26-]~~ 24. "Pharmacist" means any person licensed by the state depart-
22 ment of education to practice pharmacy.

23 ~~[27-]~~ 25. "Pharmacy" means any place registered as such by the New
24 York state board of pharmacy and registered with the Federal agency
25 pursuant to the federal controlled substances act.

26 ~~[28-]~~ 26. "Poppy straw" means all parts, except the seeds, of the
27 opium poppy, after mowing.

28 ~~[29-]~~ 27. "Practitioner" means:

29 A physician, dentist, podiatrist, veterinarian, scientific investi-
30 gator, or other person licensed, or otherwise permitted to dispense,
31 administer or conduct research with respect to a controlled substance in
32 the course of a licensed professional practice or research licensed
33 pursuant to this article. Such person shall be deemed a "practitioner"
34 only as to such substances, or conduct relating to such substances, as
35 is permitted by his license, permit or otherwise permitted by law.

36 ~~[30-]~~ 28. "Prescribe" means a direction or authorization, by
37 prescription, permitting an ultimate user lawfully to obtain controlled
38 substances from any person authorized by law to dispense such
39 substances.

40 ~~[31-]~~ 29. "Prescription" shall mean an official New York state
41 prescription, an electronic prescription, an oral prescription~~[7]~~ or an
42 out-of-state prescription~~[7]~~ or any one.

43 ~~[32-]~~ 30. "Sell" means to sell, exchange, give or dispose of to another,
44 or offer or agree to do the same.

45 ~~[33-]~~ 31. "Ultimate user" means a person who lawfully obtains and
46 possesses a controlled substance for his own use or the use by a member
47 of his household or for an animal owned by him or in his custody. It
48 shall also mean and include a person designated, by a practitioner on a
49 prescription, to obtain such substance on behalf of the patient for whom
50 such substance is intended.

51 ~~[34-]~~ 32. "Internet" means collectively computer and telecommuni-
52 cations facilities which comprise the worldwide network of networks that
53 employ a set of industry standards and protocols, or any predecessor or
54 successor protocol to such protocol, to exchange information of all
55 kinds. "Internet," as used in this article, also includes other

1 networks, whether private or public, used to transmit information by
2 electronic means.

3 ~~[35.]~~ 33. "By means of the internet" means any sale, delivery,
4 distribution, or dispensing of a controlled substance that uses the
5 internet, is initiated by use of the internet or causes the internet to
6 be used.

7 ~~[36.]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person
8 in the United States that sells, delivers or dispenses, or offers to
9 sell, deliver, or dispense, a controlled substance by means of the
10 internet.

11 ~~[37.]~~ 35. "Electronic prescription" means a prescription issued with
12 an electronic signature and transmitted by electronic means in accord-
13 ance with regulations of the commissioner and the commissioner of educa-
14 tion and consistent with federal requirements. A prescription generated
15 on an electronic system that is printed out or transmitted via facsimile
16 is not considered an electronic prescription and must be manually
17 signed.

18 ~~[38.]~~ 36. "Electronic" means of or relating to technology having elec-
19 trical, digital, magnetic, wireless, optical, electromagnetic or similar
20 capabilities. "Electronic" shall not include facsimile.

21 ~~[39.]~~ 37. "Electronic record" means a paperless record that is
22 created, generated, transmitted, communicated, received or stored by
23 means of electronic equipment and includes the preservation, retrieval,
24 use and disposition in accordance with regulations of the commissioner
25 and the commissioner of education and in compliance with federal law and
26 regulations.

27 ~~[40.]~~ 38. "Electronic signature" means an electronic sound, symbol, or
28 process, attached to or logically associated with an electronic record
29 and executed or adopted by a person with the intent to sign the record,
30 in accordance with regulations of the commissioner and the commissioner
31 of education.

32 ~~[41.]~~ 39. "Registry" or "prescription monitoring program registry"
33 means the prescription monitoring program registry established pursuant
34 to section thirty-three hundred forty-three-a of this article.

35 ~~[42.]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
36 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
37 drug substance to create a drug with respect to an outsourcing facility
38 under section 503B of the federal Food, Drug and Cosmetic Act and
39 further defined in this section.

40 ~~[43.]~~ 41. "Outsourcing facility" means a facility that:

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

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

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

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

52 § 5. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
53 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
54 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
55 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of
56 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) Synthetic Tetrahydrocannabinols. ~~[(Synthetic)]~~ tetrahydrocannabinols not derived from the cannabis plant, or tetrahydrocannabinols manufactured or created from the cannabis plant but which were not produced by the cannabis plant during its cultivation or present at the time of harvest 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).

Tetrahydrocannabinol created or produced by decarboxylation of tetrahydrocannabinolic acid produced from the cannabis plant through cultivation or present at the time of harvest and/or any U.S. Food and Drug Administration approved product containing tetrahydrocannabinol shall not be considered a synthetic tetrahydrocannabinol.

~~[(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.

1 ~~[(30)]~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
2 names: DOET.

3 ~~[(31)]~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
4 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
5 DOB; 2C-B, Nexus.

6 ~~[(32)]~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
7 optical isomers, salts and salts of isomers.

8 § 6. Title 5-A of article 33 of the public health law is REPEALED.

9 § 6-a. Article 29-A of the agriculture and markets law is REPEALED.

10 § 7. Section 3382 of the public health law, as added by chapter 878 of
11 the laws of 1972, is amended to read as follows:

12 § 3382. Growing of the plant known as Cannabis by unlicensed persons.
13 A person who, without being licensed so to do under this article or
14 articles three, four or five of the cannabis law, grows the plant of the
15 genus Cannabis or knowingly allows it to grow on his land without
16 destroying the same, shall be guilty of a class A misdemeanor.

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

19 1. ["Marihuana"] "Cannabis" means [marihuana] cannabis as defined in
20 [section thirty-three hundred two of this chapter] subdivision three of
21 section three of the cannabis law and shall also include tetrahydrocan-
22 nabinols or a chemical derivative of tetrahydrocannabinol.

23 § 9. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
24 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
25 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
26 amended by chapter 664 of the laws of 1985, are amended and a new subdi-
27 vision 21 is added to read as follows:

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

34 6. ["Marihuana"] "Cannabis" means ["marihuana" or "concentrated canna-
35 bis" as those terms are defined in section thirty-three hundred two of
36 the public health law] all parts of the plant of the genus cannabis,
37 whether growing or not; the seeds thereof; and every compound, manufac-
38 ture, salt, derivative, mixture, or preparation of the plant, or its
39 seeds. It does not include the mature stalks of the plant, fiber
40 produced from the stalks, oil or cake made from the seeds of the plant,
41 any other compound, manufacture, salt, derivative, mixture, or prepara-
42 tion of the mature stalks, fiber, oil, or cake, or the sterilized seed
43 of the plant which is incapable of germination. It does not include all
44 parts of the plant cannabis sativa L., whether growing or not, having no
45 more than three-tenths of one percent tetrahydrocannabinol (THC).

46 9. "Hallucinogen" means any controlled substance listed in schedule
47 I(d) (5), ~~[(18), (19), (20), (21) and (22)]~~ (17), (18), (19), (20) and
48 (21).

49 21. "Concentrated cannabis" means: (a) the separated resin, whether
50 crude or purified, obtained from a plant of the genus cannabis; or (b) a
51 material, preparation, mixture, compound or other substance which
52 contains more than three percent by weight of delta-9 tetrahydrocannabi-
53 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
54 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
55 system.

56 § 10. Subdivision 4 of section 220.06 of the penal law is REPEALED.

§ 11. Subdivision 10 of section 220.09 of the penal law is REPEALED.

§ 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. Intentionally omitted.

§ 14. Section 221.00 of the penal law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

§ 221.00 [~~Marihuana~~] Cannabis; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter. Any act that is lawful under [~~title five-A of article thirty-three of the public health~~] articles three, four or five, of the cannabis law is not a violation of this article.

§ 15. Section 221.00 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.00 [~~Marihuana~~] Cannabis; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter.

§ 16. Section 221.05 of the penal law, as amended by chapter 131 of the laws of 2019, is amended to read as follows:

§ 221.05 Unlawful possession of [~~marihuana~~] cannabis in the second degree.

A person is guilty of unlawful possession of [~~marihuana~~] cannabis in the second degree when he knowingly and unlawfully possesses [~~marihuana~~];

1. cannabis and is less than twenty-one years of age; or
2. cannabis in a public place, as defined in section 240.00 of this part, and such cannabis is burning.

Unlawful possession of [~~marihuana~~] cannabis in the second degree is a violation punishable only by a fine of not more than fifty dollars when such possession is by a person less than twenty-one years of age and of an aggregate weight of less than one-half of one ounce of cannabis or less than two and one-half grams of concentrated cannabis or a fine of not more than one hundred dollars when such possession is by a person less than twenty-one years of age and of an aggregate weight more than one-half of one ounce of cannabis but not more than one ounce of cannabis, or more than two and one-half grams of concentrated cannabis but not more than five grams of concentrated cannabis. Unlawful possession of cannabis in the second degree is punishable by a fine of not more than one hundred twenty-five dollars when such possession is in a public place and such cannabis is burning. The term "burning" shall mean and include smoking and vaping as such terms are defined in section thirteen hundred ninety-nine-n of the public health law.

§ 16-a. Subdivision 8 of section 1399-n of the public health law, as amended by chapter 131 of the laws of 2019, is amended to read as follows:

8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or [~~marihuana~~] cannabis as defined in section [~~thirty-three hundred two of this chapter~~] 220.00 of the penal law.

§ 17. Section 221.15 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.15 ~~[Criminal]~~ Unlawful possession of ~~[marihuana]~~ cannabis in the ~~[fourth]~~ first degree.

A person is guilty of ~~[criminal]~~ unlawful possession of ~~[marihuana]~~ cannabis in the ~~[fourth]~~ first degree when he or she knowingly and unlawfully possesses ~~[one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of]~~ an aggregate weight of more than ~~[two ounces]~~ one ounce of cannabis or more than five grams of concentrated cannabis.

~~[Criminal]~~ Unlawful possession of ~~[marihuana]~~ cannabis in the ~~[fourth]~~ first degree is a ~~[class A misdemeanor]~~ violation punishable by a fine of not more than one hundred twenty-five dollars. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law.

§ 18. Section 221.20 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.20 Criminal possession of ~~[marihuana]~~ cannabis in the ~~[third]~~ second degree.

A person is guilty of criminal possession of ~~[marihuana]~~ cannabis in the ~~[third]~~ second degree when he or she knowingly and unlawfully possesses ~~[one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of]~~ an aggregate weight of more than ~~[eight]~~ two ounces of cannabis or more than ten grams of concentrated cannabis.

Criminal possession of ~~[marihuana]~~ cannabis in the ~~[third]~~ second degree is a class ~~[E-felony]~~ A misdemeanor punishable by a fine not more than one hundred twenty-five dollars per ounce possessed in excess of two ounces of cannabis or ten grams of concentrated cannabis. However, where the defendant has previously been convicted of an offense defined in this article or article two hundred twenty of this title, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars per ounce possessed in excess of two ounces, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars per ounce possessed in excess of two ounces or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law.

§ 19. Section 221.25 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.25 Criminal possession of ~~[marihuana]~~ cannabis in the ~~[second]~~ first degree.

A person is guilty of criminal possession of ~~[marihuana]~~ cannabis in the ~~[second]~~ first degree when he or she knowingly and unlawfully possesses ~~[one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of]~~ an aggregate weight of more than ~~[sixteen]~~ sixty-four ounces of cannabis or more than eighty grams of concentrated cannabis.

1 Criminal possession of [~~marihuana~~] cannabis in the [~~second~~] first
2 degree is a class [~~D~~] E felony.

3 § 20. Sections 221.10 and 221.30 of the penal law are REPEALED.

4 § 20-a. Paragraph (c) of subdivision 8 of section 700.05 of the crimi-
5 nal procedure law, as amended by chapter 37 of the laws of 2014, is
6 amended to read as follows:

7 (c) Criminal possession of a controlled substance in the seventh
8 degree as defined in section 220.03 of the penal law, criminal
9 possession of a controlled substance in the fifth degree as defined in
10 section 220.06 of the penal law, criminal possession of a controlled
11 substance in the fourth degree as defined in section 220.09 of the penal
12 law, criminal possession of a controlled substance in the third degree
13 as defined in section 220.16 of the penal law, criminal possession of a
14 controlled substance in the second degree as defined in section 220.18
15 of the penal law, criminal possession of a controlled substance in the
16 first degree as defined in section 220.21 of the penal law, criminal
17 sale of a controlled substance in the fifth degree as defined in section
18 220.31 of the penal law, criminal sale of a controlled substance in the
19 fourth degree as defined in section 220.34 of the penal law, criminal
20 sale of a controlled substance in the third degree as defined in section
21 220.39 of the penal law, criminal sale of a controlled substance in the
22 second degree as defined in section 220.41 of the penal law, criminal
23 sale of a controlled substance in the first degree as defined in section
24 220.43 of the penal law, criminally possessing a hypodermic instrument
25 as defined in section 220.45 of the penal law, criminal sale of a
26 prescription for a controlled substance or a controlled substance by a
27 practitioner or pharmacist as defined in section 220.65 of the penal
28 law, criminal possession of methamphetamine manufacturing material in
29 the second degree as defined in section 220.70 of the penal law, crimi-
30 nal possession of methamphetamine manufacturing material in the first
31 degree as defined in section 220.71 of the penal law, criminal
32 possession of precursors of methamphetamine as defined in section 220.72
33 of the penal law, unlawful manufacture of methamphetamine in the third
34 degree as defined in section 220.73 of the penal law, unlawful manufac-
35 ture of methamphetamine in the second degree as defined in section
36 220.74 of the penal law, unlawful manufacture of methamphetamine in the
37 first degree as defined in section 220.75 of the penal law, unlawful
38 disposal of methamphetamine laboratory material as defined in section
39 220.76 of the penal law, operating as a major trafficker as defined in
40 section 220.77 of the penal law, [~~criminal possession of marihuana in~~
41 ~~the first degree as defined in section 221.30 of the penal law, criminal~~
42 ~~sale of marihuana in the first degree as defined in section 221.55 of~~
43 ~~the penal law,~~] promoting gambling in the second degree as defined in
44 section 225.05 of the penal law, promoting gambling in the first degree
45 as defined in section 225.10 of the penal law, possession of gambling
46 records in the second degree as defined in section 225.15 of the penal
47 law, possession of gambling records in the first degree as defined in
48 section 225.20 of the penal law, and possession of a gambling device as
49 defined in section 225.30 of the penal law;

50 § 20-b. Paragraph (c) of subdivision 4-b and subdivisions 6 and 9 of
51 section 1310 of the civil practice law and rules, paragraph (b) of
52 subdivision 4-b as added by chapter 655 of the laws of 1990 and subdivi-
53 sions 6 and 9 as added by chapter 669 of the laws of 1984, are amended
54 to read as follows:

55 (c) a conviction of a person for a violation of section 220.09,
56 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-~~

~~nal defendant for a violation of section 221.30 of the penal law,~~ or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances ~~[or where the conviction is for a violation of section 221.30 of the penal law, marijuana,~~ as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance ~~[or where the conviction is for a violation of section 221.30 of the penal law, marijuana,~~ that such possession was with the intent to sell it.

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

9. "Criminal defendant" means a person who has criminal liability for a crime defined in subdivisions five and six ~~[hereof]~~ of this section. For purposes of this article, a person has criminal liability when (a) he has been convicted of a post-conviction forfeiture crime, or (b) the claiming authority proves by clear and convincing evidence that such person has committed an act in violation of article two hundred twenty or section ~~[221.30 or]~~ 221.55 of the penal law.

§ 20-c. Paragraph (c) of subdivision 7 of section 480.00 of the penal law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34~~[,~~ or 220.39~~[,~~ or 221.30] of this chapter, or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances ~~[or where the conviction is for a violation of section 221.30 of this chapter, marijuana]~~ as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance ~~[or where the conviction is for a violation of section 221.30 of this chapter, marijuana]~~, that such possession was with the intent to sell it.

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

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, ~~[221.30,~~ 221.50, 221.55, 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any

1 similar offenses committed under a former section of the penal law, or
2 any offenses committed under a former section of the penal law which
3 would constitute violations of the aforesaid sections of the penal law,
4 or any offenses committed outside this state which would constitute
5 violations of the aforesaid sections of the penal law.

6 § 20-e. Subdivision 1 of section 170.56 of the criminal procedure law,
7 as amended by chapter 360 of the laws of 1977, is amended to read as
8 follows:

9 1. Upon or after arraignment in a local criminal court upon an infor-
10 mation, a prosecutor's information or a misdemeanor complaint, where the
11 sole remaining count or counts charge a violation or violations of
12 section 221.05, [~~221.10,~~] 221.15, 221.35 or 221.40 of the penal law and
13 before the entry of a plea of guilty thereto or commencement of a trial
14 thereof, the court, upon motion of a defendant, may order that all
15 proceedings be suspended and the action adjourned in contemplation of
16 dismissal, or upon a finding that adjournment would not be necessary or
17 appropriate and the setting forth in the record of the reasons for such
18 findings, may dismiss in furtherance of justice the accusatory instru-
19 ment; provided, however, that the court may not order such adjournment
20 in contemplation of dismissal or dismiss the accusatory instrument if:
21 (a) the defendant has previously been granted such adjournment in
22 contemplation of dismissal, or (b) the defendant has previously been
23 granted a dismissal under this section, or (c) the defendant has previ-
24 ously been convicted of any offense involving controlled substances, or
25 (d) the defendant has previously been convicted of a crime and the
26 district attorney does not consent or (e) the defendant has previously
27 been adjudicated a youthful offender on the basis of any act or acts
28 involving controlled substances and the district attorney does not
29 consent.

30 § 21. Section 221.35 of the penal law, as amended by chapter 265 of
31 the laws of 1979, the opening paragraph as amended by chapter 75 of the
32 laws of 1995, is amended to read as follows:

33 § 221.35 Criminal sale of [~~marihuana~~] cannabis in the fifth degree.

34 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
35 fifth degree when he or she knowingly and unlawfully sells, [~~without~~
36 for] ~~consideration[, one or more preparations, compounds, mixtures or~~
37 ~~substances containing marihuana and the preparations, compounds,~~
38 ~~mixtures or substances are]~~ cannabis or cannabis concentrate of [~~an~~
39 ~~aggregate weight of two grams or less, or one cigarette containing mari-~~
40 ~~huana]~~ any weight.

41 Criminal sale of [~~marihuana~~] cannabis in the fifth degree is a [~~class~~
42 ~~B-misdemeanor~~] violation punishable by a fine not more than the greater
43 of two-hundred and fifty dollars or two times the value of the sale.

44 § 22. Section 221.40 of the penal law, as added by chapter 360 of the
45 laws of 1977, is amended to read as follows:

46 § 221.40 Criminal sale of [~~marihuana~~] cannabis in the fourth degree.

47 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
48 fourth degree when he or she knowingly and unlawfully sells [~~marihuana~~
49 ~~except as provided in section 221.35 of this article]~~ cannabis of an
50 aggregate weight of more than one ounce or more than five grams of
51 cannabis concentrate.

52 Criminal sale of [~~marihuana~~] cannabis in the fourth degree is a [~~class~~
53 ~~A~~] misdemeanor punishable by a fine of not more than the greater of five
54 hundred dollars or two times the value of the sale or a maximum of three
55 months imprisonment, or both.

§ 23. Section 221.45 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.45 Criminal sale of [~~marihuana~~] cannabis in the third degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the third degree when he or she knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams~~] or an aggregate weight of more than four ounces of cannabis or more than twenty grams of concentrated cannabis.

Criminal sale of [~~marihuana~~] cannabis in the third degree is a [~~class E felony~~] misdemeanor punishable by a fine of not more than the greater of one thousand dollars or two times the value of the sale or a maximum of one year imprisonment or both.

§ 24. Section 221.50 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.50 Criminal sale of [~~marihuana~~] cannabis in the second degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the second degree when he knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~four ounces, or knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana to a person less than eighteen years of age~~] sixteen ounces of cannabis or more than eighty grams of concentrated cannabis or any amount of cannabis or concentrated cannabis to any person under twenty-one years of age. In any prosecution for unlawful sale of cannabis or concentrated cannabis to someone under twenty-one years of age pursuant to this section, it is an affirmative defense that: (a) the defendant had reasonable cause to believe that the person under twenty-one years of age involved was twenty-one years old or more; and (b) such person under twenty-one years of age exhibited to the defendant a draft card, driver's license or identification card, birth certificate or other official or apparently official document purporting to establish that such person was twenty-one years old or more.

Criminal sale of [~~marihuana~~] cannabis in the second degree is a class D felony.

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

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

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the first degree when he knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of~~] more than [~~sixteen~~] sixty-four ounces of cannabis or three hundred and twenty grams of cannabis concentrate.

Criminal sale of [~~marihuana~~] cannabis in the first degree is a class C felony.

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

§ 221.60 Licensing of cannabis production and distribution.

The provisions of this article and of article two hundred twenty of this title shall not apply to any person exempted from criminal penal-

ties pursuant to the provisions of this chapter or possessing, manufacturing, transporting, distributing, selling or transferring cannabis or concentrated cannabis, or engaged in any other action that is in compliance with article three, four or five of the cannabis law.

§ 27. Intentionally omitted.

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

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

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

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

§ 114-a. Drug. The term "drug" when used in this chapter, means and includes any substance listed in section thirty-three hundred six of the public health law and any substance or combination of substances that impair, to any extent, physical or mental abilities.

§ 31. The article heading of article 20-B of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

EXCISE TAX ON MEDICAL [~~MARIHUANA~~] CANNABIS

§ 32. The paragraph heading and subparagraph (i) of paragraph (b) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, are amended to read as follows:

Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses. (i) A violation of subdivision two, three, or four [~~or four-a~~] of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. A violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment.

§ 33. Paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, is amended by adding a new subparagraph (i-a) to read as follows:

(i-a) A violation of subdivision four-a of section eleven hundred ninety-two of this article shall be a class E felony, and shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

§ 33-a. Subdivisions 1, 2 and 3 of section 1194 of the vehicle and traffic law, as added by chapter 47 of the laws of 1988, paragraph (a) of subdivision 2 as amended by chapter 196 of the laws of 1996, paragraphs (b) and (c) of subdivision 2 as amended by chapter 489 of the laws of 2017, clause (A) of subparagraph 1, subparagraphs 2 and 3 of paragraph (b), subparagraphs 1, 2 and 3 of paragraph (c) of subdivision 2 as amended by chapter 27 of the laws of 2018, subparagraphs 1 and 2 of paragraph (d) of subdivision 2 as amended by chapter 732 of the laws of 2006, and item (iii) of clause c of subparagraph 1 of paragraph (d) of

subdivision 2 as amended by section 37 of part LL of chapter 56 of the laws of 2010, are amended to read as follows:

1. Arrest and field testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of subdivision one of section eleven hundred ninety-two of this article, if such violation is coupled with an accident or collision in which such person is involved, which in fact has been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person.

(b) Field testing. Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath test and/or oral/bodily fluid to be administered by the police officer, and/or to an evaluation by a drug recognition expert or advance roadside impairment detection enforcement certified officer. If such test indicates that such operator has consumed alcohol or drug or drugs, the police officer may request such operator to submit to a chemical test or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer in the manner set forth in subdivision two of this section.

2. Chemical and drug recognition tests. (a) When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof and/or a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer:

(1) having reasonable grounds to believe such person to have been operating in violation of any subdivision of section eleven hundred ninety-two of this article and within two hours after such person has been placed under arrest for any such violation; or having reasonable grounds to believe such person to have been operating in violation of section eleven hundred ninety-two-a of this article and within two hours after the stop of such person for any such violation,

(2) within two hours after a breath test and/or oral/bodily fluid, or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer, as provided in paragraph (b) of subdivision one of this section, indicates that alcohol and/or drug or drugs, has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member;

(3) for the purposes of this paragraph, "reasonable grounds" to believe that a person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a, or alcohol and/or drug or drugs in violation of any other section of eleven hundred ninety-two, of this article shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of such subdivision. Such circumstances may include any visible or behavioral indication of alcohol and/or drug or drugs consumption by the operator, the existence of an open container containing or having contained an

1 alcoholic beverage and/or drug or drugs in or around the vehicle driven
2 by the operator, the odor of cannabis or burnt cannabis, or any other
3 evidence surrounding the circumstances of the incident which indicates
4 that the operator has been operating a motor vehicle after having
5 consumed alcohol and/or drug or drugs at the time of the incident; or

6 (4) notwithstanding any other provision of law to the contrary, no
7 person under the age of twenty-one shall be arrested for an alleged
8 violation of section eleven hundred ninety-two-a of this article.
9 However, a person under the age of twenty-one for whom a chemical test
10 or an evaluation conducted by a drug recognition expert or advance road-
11 side impairment detection enforcement certified officer is authorized
12 pursuant to this paragraph may be temporarily detained by the police
13 solely for the purpose of requesting or administering such chemical test
14 whenever arrest without a warrant for a petty offense would be author-
15 ized in accordance with the provisions of section 140.10 of the criminal
16 procedure law or paragraph (a) of subdivision one of this section.

17 (b) Report of refusal. (1) If: (A) such person having been placed
18 under arrest; or (B) after a breath test indicates the presence of alco-
19 hol and/or drug or drugs in the person's system; or (C) with regard to a
20 person under the age of twenty-one, there are reasonable grounds to
21 believe that such person has been operating a motor vehicle after having
22 consumed alcohol in violation of section eleven hundred ninety-two-a of
23 this article; and having thereafter been requested to submit to such
24 chemical test or an evaluation conducted by a drug recognition expert or
25 advance roadside impairment detection enforcement certified officer and
26 having been informed that the person's license or permit to drive and
27 any non-resident operating privilege shall be immediately suspended and
28 subsequently revoked, or, for operators under the age of twenty-one for
29 whom there are reasonable grounds to believe that such operator has been
30 operating a motor vehicle after having consumed alcohol in violation of
31 section eleven hundred ninety-two-a of this article, shall be revoked
32 for refusal to submit to such chemical test or any portion thereof, or
33 an evaluation conducted by a drug recognition expert or advance roadside
34 impairment detection enforcement certified officer or any portion there-
35 of, whether or not the person is found guilty of the charge for which
36 such person is arrested or detained, refuses to submit to such chemical
37 test or any portion thereof, or an evaluation conducted by a drug recog-
38 inition expert or advance roadside impairment detection enforcement
39 certified officer or any portion thereof, unless a court order has been
40 granted pursuant to subdivision three of this section, the test shall
41 not be given and a written report of such refusal shall be immediately
42 made by the police officer before whom such refusal was made. Such
43 report may be verified by having the report sworn to, or by affixing to
44 such report a form notice that false statements made therein are punish-
45 able as a class A misdemeanor pursuant to section 210.45 of the penal
46 law and such form notice together with the subscription of the deponent
47 shall constitute a verification of the report.

48 (2) The report of the police officer shall set forth reasonable
49 grounds to believe such arrested person or such detained person under
50 the age of twenty-one had been driving in violation of any subdivision
51 of section eleven hundred ninety-two or eleven hundred ninety-two-a of
52 this article, that said person had refused to submit to such chemical
53 test, or an evaluation conducted by a drug recognition expert or advance
54 roadside impairment detection enforcement certified officer or any
55 portion thereof, and that no chemical test or evaluation conducted by a
56 drug recognition expert or advance roadside impairment detection

1 enforcement certified officer was administered pursuant to the require-
2 ments of subdivision three of this section. The report shall be
3 presented to the court upon arraignment of an arrested person, provided,
4 however, in the case of a person under the age of twenty-one, for whom a
5 test was authorized pursuant to the provisions of subparagraph two or
6 three of paragraph (a) of this subdivision, and who has not been placed
7 under arrest for a violation of any of the provisions of section eleven
8 hundred ninety-two of this article, such report shall be forwarded to
9 the commissioner within forty-eight hours in a manner to be prescribed
10 by the commissioner, and all subsequent proceedings with regard to
11 refusal to submit to such chemical test by such person shall be as set
12 forth in subdivision three of section eleven hundred ninety-four-a of
13 this article.

14 (3) For persons placed under arrest for a violation of any subdivision
15 of section eleven hundred ninety-two of this article, the license or
16 permit to drive and any non-resident operating privilege shall, upon the
17 basis of such written report, be temporarily suspended by the court
18 without notice pending the determination of a hearing as provided in
19 paragraph (c) of this subdivision. Copies of such report must be trans-
20 mitted by the court to the commissioner and such transmittal may not be
21 waived even with the consent of all the parties. Such report shall be
22 forwarded to the commissioner within forty-eight hours of such arraign-
23 ment.

24 (4) The court or the police officer, in the case of a person under the
25 age of twenty-one alleged to be driving after having consumed alcohol,
26 shall provide such person with a scheduled hearing date, a waiver form,
27 and such other information as may be required by the commissioner. If a
28 hearing, as provided for in paragraph (c) of this subdivision, or subdi-
29 vision three of section eleven hundred ninety-four-a of this article, is
30 waived by such person, the commissioner shall immediately revoke the
31 license, permit, or non-resident operating privilege, as of the date of
32 receipt of such waiver in accordance with the provisions of paragraph
33 (d) of this subdivision.

34 (c) Hearings. Any person whose license or permit to drive or any non-
35 resident driving privilege has been suspended pursuant to paragraph (b)
36 of this subdivision is entitled to a hearing in accordance with a hear-
37 ing schedule to be promulgated by the commissioner. If the department
38 fails to provide for such hearing fifteen days after the date of the
39 arraignment of the arrested person, the license, permit to drive or
40 non-resident operating privilege of such person shall be reinstated
41 pending a hearing pursuant to this section. The hearing shall be limited
42 to the following issues: (1) did the police officer have reasonable
43 grounds to believe that such person had been driving in violation of any
44 subdivision of section eleven hundred ninety-two of this article; (2)
45 did the police officer make a lawful arrest of such person; (3) was such
46 person given sufficient warning, in clear or unequivocal language, prior
47 to such refusal that such refusal to submit to such chemical test or any
48 portion thereof or an evaluation conducted by a drug recognition expert
49 or advance roadside impairment detection enforcement certified officer
50 or any portion thereof, would result in the immediate suspension and
51 subsequent revocation of such person's license or operating privilege
52 whether or not such person is found guilty of the charge for which the
53 arrest was made; and (4) did such person refuse to submit to such chemi-
54 cal test or any portion thereof or an evaluation conducted by a drug
55 recognition expert or advance roadside impairment detection enforcement
56 certified officer or any portion thereof. If, after such hearing, the

1 hearing officer, acting on behalf of the commissioner, finds on any one
2 of said issues in the negative, the hearing officer shall immediately
3 terminate any suspension arising from such refusal. If, after such hear-
4 ing, the hearing officer, acting on behalf of the commissioner finds all
5 of the issues in the affirmative, such officer shall immediately revoke
6 the license or permit to drive or any non-resident operating privilege
7 in accordance with the provisions of paragraph (d) of this subdivision.
8 A person who has had a license or permit to drive or non-resident oper-
9 ating privilege suspended or revoked pursuant to this subdivision may
10 appeal the findings of the hearing officer in accordance with the
11 provisions of article three-A of this chapter. Any person may waive the
12 right to a hearing under this section. Failure by such person to appear
13 for the scheduled hearing shall constitute a waiver of such hearing,
14 provided, however, that such person may petition the commissioner for a
15 new hearing which shall be held as soon as practicable.

16 (d) Sanctions. (1) Revocations. a. Any license which has been revoked
17 pursuant to paragraph (c) of this subdivision shall not be restored for
18 at least one year after such revocation, nor thereafter, except in the
19 discretion of the commissioner. However, no such license shall be
20 restored for at least eighteen months after such revocation, nor there-
21 after except in the discretion of the commissioner, in any case where
22 the person has had a prior revocation resulting from refusal to submit
23 to a chemical test or an evaluation conducted by a drug recognition
24 expert or advance roadside impairment detection enforcement certified
25 officer or any portion thereof, or has been convicted of or found to be
26 in violation of any subdivision of section eleven hundred ninety-two or
27 section eleven hundred ninety-two-a of this article not arising out of
28 the same incident, within the five years immediately preceding the date
29 of such revocation; provided, however, a prior finding that a person
30 under the age of twenty-one has refused to submit to a chemical test
31 pursuant to subdivision three of section eleven hundred ninety-four-a of
32 this article shall have the same effect as a prior finding of a refusal
33 pursuant to this subdivision solely for the purpose of determining the
34 length of any license suspension or revocation required to be imposed
35 under any provision of this article, provided that the subsequent
36 offense or refusal is committed or occurred prior to the expiration of
37 the retention period for such prior refusal as set forth in paragraph
38 (k) of subdivision one of section two hundred one of this chapter.

39 b. Any license which has been revoked pursuant to paragraph (c) of
40 this subdivision or pursuant to subdivision three of section eleven
41 hundred ninety-four-a of this article, where the holder was under the
42 age of twenty-one years at the time of such refusal, shall not be
43 restored for at least one year, nor thereafter, except in the discretion
44 of the commissioner. Where such person under the age of twenty-one years
45 has a prior finding, conviction or youthful offender adjudication
46 resulting from a violation of section eleven hundred ninety-two or
47 section eleven hundred ninety-two-a of this article, not arising from
48 the same incident, such license shall not be restored for at least one
49 year or until such person reaches the age of twenty-one years, whichever
50 is the greater period of time, nor thereafter, except in the discretion
51 of the commissioner.

52 c. Any commercial driver's license which has been revoked pursuant to
53 paragraph (c) of this subdivision based upon a finding of refusal to
54 submit to a chemical test or an evaluation conducted by a drug recogni-
55 tion expert or advance roadside impairment detection enforcement certi-
56 fied officer or any portion thereof, where such finding occurs within or

1 outside of this state, shall not be restored for at least eighteen
2 months after such revocation, nor thereafter, except in the discretion
3 of the commissioner, but shall not be restored for at least three years
4 after such revocation, nor thereafter, except in the discretion of the
5 commissioner, if the holder of such license was operating a commercial
6 motor vehicle transporting hazardous materials at the time of such
7 refusal. However, such person shall be permanently disqualified from
8 operating a commercial motor vehicle in any case where the holder has a
9 prior finding of refusal to submit to a chemical test or an evaluation
10 conducted by a drug recognition expert or advance roadside impairment
11 detection enforcement certified officer or any portion thereof pursuant
12 to this section or has a prior conviction of any of the following
13 offenses: any violation of section eleven hundred ninety-two of this
14 article; any violation of subdivision one or two of section six hundred
15 of this chapter; or has a prior conviction of any felony involving the
16 use of a motor vehicle pursuant to paragraph (a) of subdivision one of
17 section five hundred ten-a of this chapter. Provided that the commis-
18 sioner may waive such permanent revocation after a period of ten years
19 has expired from such revocation provided:

20 (i) that during such ten year period such person has not been found to
21 have refused a chemical test or an evaluation conducted by a drug recog-
22 inition expert or advance roadside impairment detection enforcement
23 certified officer; or any portion thereof pursuant to this section and
24 has not been convicted of any one of the following offenses: any
25 violation of section eleven hundred ninety-two of this article; refusal
26 to submit to a chemical test or an evaluation conducted by a drug recog-
27 inition expert or advance roadside impairment detection enforcement
28 certified officer or any portion thereof pursuant to this section; any
29 violation of subdivision one or two of section six hundred of this chap-
30 ter; or has a prior conviction of any felony involving the use of a
31 motor vehicle pursuant to paragraph (a) of subdivision one of section
32 five hundred ten-a of this chapter;

33 (ii) that such person provides acceptable documentation to the commis-
34 sioner that such person is not in need of alcohol or drug treatment or
35 has satisfactorily completed a prescribed course of such treatment; and

36 (iii) after such documentation is accepted, that such person is grant-
37 ed a certificate of relief from disabilities or a certificate of good
38 conduct pursuant to article twenty-three of the correction law by the
39 court in which such person was last penalized.

40 d. Upon a third finding of refusal and/or conviction of any of the
41 offenses which require a permanent commercial driver's license revoca-
42 tion, such permanent revocation may not be waived by the commissioner
43 under any circumstances.

44 (2) Civil penalties. Except as otherwise provided, any person whose
45 license, permit to drive, or any non-resident operating privilege is
46 revoked pursuant to the provisions of this section shall also be liable
47 for a civil penalty in the amount of five hundred dollars except that if
48 such revocation is a second or subsequent revocation pursuant to this
49 section issued within a five year period, or such person has been
50 convicted of a violation of any subdivision of section eleven hundred
51 ninety-two of this article within the past five years not arising out of
52 the same incident, the civil penalty shall be in the amount of seven
53 hundred fifty dollars. Any person whose license is revoked pursuant to
54 the provisions of this section based upon a finding of refusal to submit
55 to a chemical test while operating a commercial motor vehicle shall also
56 be liable for a civil penalty of five hundred fifty dollars except that

1 if such person has previously been found to have refused a chemical test
2 or an evaluation conducted by a drug recognition expert or advance road-
3 side impairment detection enforcement certified officer or any portion
4 thereof pursuant to this section while operating a commercial motor
5 vehicle or has a prior conviction of any of the following offenses while
6 operating a commercial motor vehicle: any violation of section eleven
7 hundred ninety-two of this article; any violation of subdivision two of
8 section six hundred of this chapter; or has a prior conviction of any
9 felony involving the use of a commercial motor vehicle pursuant to para-
10 graph (a) of subdivision one of section five hundred ten-a of this chap-
11 ter, then the civil penalty shall be seven hundred fifty dollars. No new
12 driver's license or permit shall be issued, or non-resident operating
13 privilege restored to such person unless such penalty has been paid. All
14 penalties collected by the department pursuant to the provisions of this
15 section shall be the property of the state and shall be paid into the
16 general fund of the state treasury.

17 (3) Effect of rehabilitation program. No period of revocation arising
18 out of this section may be set aside by the commissioner for the reason
19 that such person was a participant in the alcohol and drug rehabili-
20 tation program set forth in section eleven hundred ninety-six of this
21 article.

22 (e) Regulations. The commissioner shall promulgate such rules and
23 regulations as may be necessary to effectuate the provisions of subdivi-
24 sions one and two of this section.

25 (f) Evidence. Evidence of a refusal to submit to such chemical test or
26 any portion thereof or an evaluation conducted by a drug recognition
27 expert or advance roadside impairment detection enforcement certified
28 officer shall be admissible in any trial, proceeding or hearing based
29 upon a violation of the provisions of section eleven hundred ninety-two
30 of this article but only upon a showing that the person was given suffi-
31 cient warning, in clear and unequivocal language, of the effect of such
32 refusal and that the person persisted in the refusal.

33 (g) Results. Upon the request of the person who was tested, the
34 results of such test shall be made available to such person.

35 3. Compulsory chemical tests. (a) Court ordered chemical tests.
36 Notwithstanding the provisions of subdivision two of this section, no
37 person who operates a motor vehicle in this state may refuse to submit
38 to a chemical test of one or more of the following: breath, blood, urine
39 or saliva, for the purpose of determining the alcoholic and/or drug
40 content of the blood when a court order for such chemical test has been
41 issued in accordance with the provisions of this subdivision.

42 (b) When authorized. Upon refusal by any person to submit to a chemi-
43 cal test or any portion thereof as described above, the test shall not
44 be given unless a police officer or a district attorney, as defined in
45 subdivision thirty-two of section 1.20 of the criminal procedure law,
46 requests and obtains a court order to compel a person to submit to a
47 chemical test to determine the alcoholic or drug content of the person's
48 blood upon a finding of reasonable cause to believe that:

49 (1) such person was the operator of a motor vehicle [~~and in the course~~
50 ~~of such operation a person other than the operator was killed or~~
51 ~~suffered serious physical injury as defined in section 10.00 of the~~
52 ~~penal law~~]; and

53 (2) a. either such person operated the vehicle in violation of any
54 subdivision of section eleven hundred ninety-two of this article, or b.
55 a breath and/or oral/bodily fluid test administered by a police officer

1 in accordance with paragraph (b) of subdivision one of this section
2 indicates that alcohol has been consumed by such person; and

3 (3) such person has been placed under lawful arrest; and

4 (4) such person has refused to submit to a chemical test or any
5 portion thereof, requested in accordance with the provisions of para-
6 graph (a) of subdivision two of this section or is unable to give
7 consent to such a test.

8 (c) Reasonable cause; definition. For the purpose of this subdivision
9 "reasonable cause" shall be determined by viewing the totality of
10 circumstances surrounding the incident which, when taken together, indi-
11 cate that the operator was driving in violation of section eleven
12 hundred ninety-two of this article. Such circumstances may include, but
13 are not limited to: evidence that the operator was operating a motor
14 vehicle in violation of any provision of this article or any other
15 moving violation at the time of the incident; any visible indication of
16 alcohol or drug consumption or impairment by the operator; the existence
17 of an open container containing an alcoholic beverage and/or drug or
18 drugs in or around the vehicle driven by the operator; the odor of
19 cannabis or burnt cannabis; any other evidence surrounding the circum-
20 stances of the incident which indicates that the operator has been oper-
21 ating a motor vehicle while impaired by the consumption of alcohol or
22 drugs or intoxicated at the time of the incident.

23 (d) Court order; procedure. (1) An application for a court order to
24 compel submission to a chemical test or any portion thereof, may be made
25 to any supreme court justice, county court judge or district court judge
26 in the judicial district in which the incident occurred, or if the inci-
27 dent occurred in the city of New York before any supreme court justice
28 or judge of the criminal court of the city of New York. Such application
29 may be communicated by telephone, radio or other means of electronic
30 communication, or in person.

31 (2) The applicant must provide identification by name and title and
32 must state the purpose of the communication. Upon being advised that an
33 application for a court order to compel submission to a chemical test is
34 being made, the court shall place under oath the applicant and any other
35 person providing information in support of the application as provided
36 in subparagraph three of this paragraph. After being sworn the applicant
37 must state that the person from whom the chemical test was requested was
38 the operator of a motor vehicle and in the course of such operation a
39 person, other than the operator, has been killed or seriously injured
40 and, based upon the totality of circumstances, there is reasonable cause
41 to believe that such person was operating a motor vehicle in violation
42 of any subdivision of section eleven hundred ninety-two of this article
43 and, after being placed under lawful arrest such person refused to
44 submit to a chemical test or any portion thereof, in accordance with the
45 provisions of this section or is unable to give consent to such a test
46 or any portion thereof. The applicant must make specific allegations of
47 fact to support such statement. Any other person properly identified,
48 may present sworn allegations of fact in support of the applicant's
49 statement.

50 (3) Upon being advised that an oral application for a court order to
51 compel a person to submit to a chemical test is being made, a judge or
52 justice shall place under oath the applicant and any other person
53 providing information in support of the application. Such oath or oaths
54 and all of the remaining communication must be recorded, either by means
55 of a voice recording device or verbatim stenographic or verbatim long-
56 hand notes. If a voice recording device is used or a stenographic record

1 made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within seventy-two hours of the issuance of the court order. If the longhand notes are taken, the judge shall subscribe a copy and file it with the court within twenty-four hours of the issuance of the order.

7 (4) If the court is satisfied that the requirements for the issuance of a court order pursuant to the provisions of paragraph (b) of this subdivision have been met, it may grant the application and issue an order requiring the accused to submit to a chemical test to determine the alcoholic and/or drug content of his blood and ordering the withdrawal of a blood sample in accordance with the provisions of paragraph (a) of subdivision four of this section. When a judge or justice determines to issue an order to compel submission to a chemical test based on an oral application, the applicant therefor shall prepare the order in accordance with the instructions of the judge or justice. In all cases the order shall include the name of the issuing judge or justice, the name of the applicant, and the date and time it was issued. It must be signed by the judge or justice if issued in person, or by the applicant if issued orally.

21 (5) Any false statement by an applicant or any other person in support of an application for a court order shall subject such person to the offenses for perjury set forth in article two hundred ten of the penal law.

25 (6) The chief administrator of the courts shall establish a schedule to provide that a sufficient number of judges or justices will be available in each judicial district to hear oral applications for court orders as permitted by this section.

29 (e) Administration of compulsory chemical test. An order issued pursuant to the provisions of this subdivision shall require that a chemical test to determine the alcoholic and/or drug content of the operator's blood must be administered. The provisions of paragraphs (a), (b) and (c) of subdivision four of this section shall be applicable to any chemical test administered pursuant to this section.

35 § 33-b. Subdivision 1 of section 1227 of the vehicle and traffic law, as amended by section 3 of part F of chapter 60 of the laws of 2005, is amended to read as follows:

38 1. The drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage or cannabis, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction.

43 The provisions of this section shall not be deemed to prohibit the drinking of alcoholic beverages the consumption of cannabis, or the possession of an open container containing an alcoholic beverage or cannabis by passengers in passenger vehicles operated pursuant to a certificate or permit issued by the department of transportation or the United States department of transportation. Furthermore, the provisions of this section shall not be deemed to prohibit the possession of wine which is: (a) resealed in accordance with the provisions of subdivision four of section eighty-one of the alcoholic beverage control law; and (b) is transported in the vehicle's trunk or is transported behind the last upright seat or in an area not normally occupied by the driver or passenger in a motor vehicle that is not equipped with a trunk.

§ 34. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is

certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit it to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 34-a. Subdivision 1 of section 171-a of the tax law, as amended by section 4 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-C, twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all

1 such depositories. Of the total revenue collected or received under such
2 articles of this chapter, the comptroller shall retain in the comp-
3 troller's hands such amount as the commissioner may determine to be
4 necessary for refunds or reimbursements under such articles of this
5 chapter out of which amount the comptroller shall pay any refunds or
6 reimbursements to which taxpayers shall be entitled under the provisions
7 of such articles of this chapter. The commissioner and the comptroller
8 shall maintain a system of accounts showing the amount of revenue
9 collected or received from each of the taxes imposed by such articles.
10 The comptroller, after reserving the amount to pay such refunds or
11 reimbursements, shall, on or before the tenth day of each month, pay
12 into the state treasury to the credit of the general fund all revenue
13 deposited under this section during the preceding calendar month and
14 remaining to the comptroller's credit on the last day of such preceding
15 month, (i) except that the comptroller shall pay to the state department
16 of social services that amount of overpayments of tax imposed by article
17 twenty-two of this chapter and the interest on such amount which is
18 certified to the comptroller by the commissioner as the amount to be
19 credited against past-due support pursuant to subdivision six of section
20 one hundred seventy-one-c of this article, (ii) and except that the
21 comptroller shall pay to the New York state higher education services
22 corporation and the state university of New York or the city university
23 of New York respectively that amount of overpayments of tax imposed by
24 article twenty-two of this chapter and the interest on such amount which
25 is certified to the comptroller by the commissioner as the amount to be
26 credited against the amount of defaults in repayment of guaranteed
27 student loans and state university loans or city university loans pursu-
28 ant to subdivision five of section one hundred seventy-one-d and subdi-
29 vision six of section one hundred seventy-one-e of this article, (iii)
30 and except further that, notwithstanding any law, the comptroller shall
31 credit to the revenue arrearage account, pursuant to section
32 ninety-one-a of the state finance law, that amount of overpayment of tax
33 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
34 or thirty-three of this chapter, and any interest thereon, which is
35 certified to the comptroller by the commissioner as the amount to be
36 credited against a past-due legally enforceable debt owed to a state
37 agency pursuant to paragraph (a) of subdivision six of section one
38 hundred seventy-one-f of this article, provided, however, he shall cred-
39 it to the special offset fiduciary account, pursuant to section ninety-
40 one-c of the state finance law, any such amount creditable as a liabil-
41 ity as set forth in paragraph (b) of subdivision six of section one
42 hundred seventy-one-f of this article, (iv) and except further that the
43 comptroller shall pay to the city of New York that amount of overpayment
44 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
45 thirty-B or thirty-three of this chapter and any interest thereon that
46 is certified to the comptroller by the commissioner as the amount to be
47 credited against city of New York tax warrant judgment debt pursuant to
48 section one hundred seventy-one-l of this article, (v) and except
49 further that the comptroller shall pay to a non-obligated spouse that
50 amount of overpayment of tax imposed by article twenty-two of this chap-
51 ter and the interest on such amount which has been credited pursuant to
52 section one hundred seventy-one-c, one hundred seventy-one-d, one
53 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
54 ty-one-l of this article and which is certified to the comptroller by
55 the commissioner as the amount due such non-obligated spouse pursuant to
56 paragraph six of subsection (b) of section six hundred fifty-one of this

chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-1 of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 35. Section 490 of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 490. ~~Definitions~~ Excise tax on medical cannabis. 1. (a) ~~[All definitions of terms applicable to title five-A of article thirty-three of the public health law shall apply to this article.]~~ For purposes of this article, the terms "medical cannabis," "registered organization," "certified patient," and "designated caregiver" shall have the same definitions as in section three of the cannabis law.

(b) As used in this section, where not otherwise specifically defined and unless a different meaning is clearly required "gross receipt" means the amount received in or by reason of any sale, conditional or otherwise, of medical ~~[marihuana]~~ cannabis or in or by reason of the furnishing of medical ~~[marihuana]~~ cannabis from the sale of medical ~~[marihuana]~~ cannabis provided by a registered organization to a certified patient or designated caregiver. Gross receipt is expressed in money, whether paid in cash, credit or property of any kind or nature, and shall be determined without any deduction therefrom on account of the cost of the service sold or the cost of materials, labor or services used or other costs, interest or discount paid, or any other expenses whatsoever. "Amount received" for the purpose of the definition of gross receipt, as the term gross receipt is used throughout this article, means the amount charged for the provision of medical ~~[marihuana]~~ cannabis.

2. There is hereby imposed an excise tax on the gross receipts from the sale of medical ~~[marihuana]~~ cannabis by a registered organization to a certified patient or designated caregiver, to be paid by the registered organization, at the rate of seven percent. The tax imposed by this article shall be charged against and be paid by the registered organization and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

3. The commissioner may make, adopt and amend rules, regulations, procedures and forms necessary for the proper administration of this article.

4. Every registered organization that makes sales of medical ~~[marihuana]~~ cannabis subject to the tax imposed by this article shall, on or before the twentieth date of each month, file with the commissioner a return on forms to be prescribed by the commissioner, showing its receipts from the retail sale of medical ~~[marihuana]~~ cannabis during the preceding calendar month and the amount of tax due thereon. Such returns shall contain such further information as the commissioner may require. Every registered organization required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due on its retail sales of medical ~~[marihuana]~~ cannabis for the period covered by such return. If a return is not

1 filed when due, the tax shall be due on the day on which the return is
2 required to be filed.

3 5. Whenever the commissioner shall determine that any moneys received
4 under the provisions of this article were paid in error, he may cause
5 the same to be refunded, with interest, in accordance with such rules
6 and regulations as he may prescribe, except that no interest shall be
7 allowed or paid if the amount thereof would be less than one dollar.
8 Such interest shall be at the overpayment rate set by the commissioner
9 pursuant to subdivision twenty-sixth of section one hundred seventy-one
10 of this chapter, or if no rate is set, at the rate of six percent per
11 annum, from the date when the tax, penalty or interest to be refunded
12 was paid to a date preceding the date of the refund check by not more
13 than thirty days. Provided, however, that for the purposes of this
14 subdivision, any tax paid before the last day prescribed for its payment
15 shall be deemed to have been paid on such last day. Such moneys received
16 under the provisions of this article which the commissioner shall deter-
17 mine were paid in error, may be refunded out of funds in the custody of
18 the comptroller to the credit of such taxes provided an application
19 therefor is filed with the commissioner within two years from the time
20 the erroneous payment was made.

21 6. The provisions of article twenty-seven of this chapter shall apply
22 to the tax imposed by this article in the same manner and with the same
23 force and effect as if the language of such article had been incorpo-
24 rated in full into this section and had expressly referred to the tax
25 imposed by this article, except to the extent that any provision of such
26 article is either inconsistent with a provision of this article or is
27 not relevant to this article.

28 7. All taxes, interest and penalties collected or received by the
29 commissioner under this article shall be deposited and disposed of
30 pursuant to the provisions of section one hundred seventy-one-a of this
31 chapter, provided that an amount equal to one hundred percent collected
32 under this article less any amount determined by the commissioner to be
33 reserved by the comptroller for refunds or reimbursements shall be paid
34 by the comptroller to the credit of the medical [~~marihuana~~] cannabis
35 trust fund established by section eighty-nine-h of the state finance
36 law.

37 8. A registered organization that dispenses medical [~~marihuana~~] canna-
38 bis shall provide to the department information on where the medical
39 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]
40 cannabis was manufactured. A registered organization that obtains [~~mari-~~
41 ~~huana~~] cannabis from another registered organization shall obtain from
42 such registered organization information on where the medical [~~marihua-~~
43 ~~na~~] cannabis was manufactured.

44 § 36. Section 491 of the tax law, as added by chapter 90 of the laws
45 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60
46 of the laws of 2016, is amended to read as follows:

47 § 491. Returns to be secret. 1. Except in accordance with proper judi-
48 cial order or as in this section or otherwise provided by law, it shall
49 be unlawful for the commissioner, any officer or employee of the depart-
50 ment, or any officer or person who, pursuant to this section, is permit-
51 ted to inspect any return or report or to whom a copy, an abstract or a
52 portion of any return or report is furnished, or to whom any information
53 contained in any return or report is furnished, or any person engaged or
54 retained by such department on an independent contract basis or any
55 person who in any manner may acquire knowledge of the contents of a
56 return or report filed pursuant to this article to divulge or make known

1 in any manner the contents or any other information relating to the
2 business of a distributor, owner or other person contained in any return
3 or report required under this article. The officers charged with the
4 custody of such returns or reports shall not be required to produce any
5 of them or evidence of anything contained in them in any action or
6 proceeding in any court, except on behalf of the state, [~~the state~~
7 ~~department of health~~] office of cannabis management, or the commissioner
8 in an action or proceeding under the provisions of this chapter or on
9 behalf of the state or the commissioner in any other action or proceeding
10 involving the collection of a tax due under this chapter to which
11 the state or the commissioner is a party or a claimant or on behalf of
12 any party to any action or proceeding under the provisions of this article,
13 when the returns or the reports or the facts shown thereby are
14 directly involved in such action or proceeding, or in an action or
15 proceeding relating to the regulation or taxation of medical [~~marihuana~~
16 cannabis] on behalf of officers to whom information shall have been
17 supplied as provided in subdivision two of this section, in any of which
18 events the court may require the production of, and may admit in
19 evidence so much of said returns or reports or of the facts shown thereby
20 as are pertinent to the action or proceeding and no more. Nothing
21 herein shall be construed to prohibit the commissioner, in his or her
22 discretion, from allowing the inspection or delivery of a certified copy
23 of any return or report filed under this article or of any information
24 contained in any such return or report by or to a duly authorized officer
25 or employee of the [~~state department of health~~] office of cannabis
26 management; or by or to the attorney general or other legal representatives
27 of the state when an action shall have been recommended or
28 commenced pursuant to this chapter in which such returns or reports or
29 the facts shown thereby are directly involved; or the inspection of the
30 returns or reports required under this article by the comptroller or
31 duly designated officer or employee of the state department of audit and
32 control, for purposes of the audit of a refund of any tax paid by a
33 registered organization or other person under this article; nor to
34 prohibit the delivery to a registered organization, or a duly authorized
35 representative of such registered organization, a certified copy of any
36 return or report filed by such registered organization pursuant to this
37 article, nor to prohibit the publication of statistics so classified as
38 to prevent the identification of particular returns or reports and the
39 items thereof. This section shall also not be construed to prohibit the
40 disclosure, for tax administration purposes, to the division of the
41 budget and the office of the state comptroller, of information aggregated
42 from the returns filed by all the registered organizations making
43 sales of, or manufacturing, medical [~~marihuana~~] cannabis in a specified
44 county, whether the number of such registered organizations is one or
45 more. Provided further that, notwithstanding the provisions of this
46 subdivision, the commissioner may, in his or her discretion, permit the
47 proper officer of any county entitled to receive an allocation, following
48 appropriation by the legislature, pursuant to this article and
49 section eighty-nine-h of the state finance law, or the authorized representative
50 of such officer, to inspect any return filed under this article, or may
51 furnish to such officer or the officer's authorized representative an
52 abstract of any such return or supply such officer or such representative
53 with information concerning an item contained in any such return, or
54 disclosed by any investigation of tax liability under this
55 article.

2. The commissioner, in his or her discretion and pursuant to such rules and regulations as he or she may adopt, may permit ~~[the commissioner of internal revenue of the United States, or]~~ the appropriate officers of any other state which regulates or taxes medical ~~[marihuana]~~ cannabis, or the duly authorized representatives of such ~~[commissioner or of any such]~~ officers, to inspect returns or reports made pursuant to this article, or may furnish to such ~~[commissioner or]~~ other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply ~~[such commissioner or]~~ any such officers or such representatives with information relating to the business of a registered organization making returns or reports hereunder. The commissioner may refuse to supply information pursuant to this subdivision ~~[to the commissioner of internal revenue of the United States or]~~ to the officers of any other state if the statutes ~~[of the United States, or]~~ of the state represented by such officers, do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to ~~[the commissioner of internal revenue of the United States or]~~ the appropriate officers of any other state which regulates or taxes medical ~~[marihuana]~~ cannabis, or the duly authorized representatives ~~[of such commissioner or]~~ of any of such officers, unless such ~~[commissioner,]~~ officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such ~~[commissioner,]~~ officer or other representatives.

3. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 37. The tax law is amended by adding a new article 20-C to read as follows:

ARTICLE 20-C

TAX ON ADULT-USE CANNABIS PRODUCTS

Section 492. Definitions.

493. Imposition of tax.

494. Registration and renewal.

495. Returns and payment of tax.

496. Records to be kept; penalties.

496-a. Returns to be secret.

496-b. Administrative provisions.

496-c. Illicit cannabis penalty.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Adult-use cannabis product" means cannabis, concentrated cannabis, and cannabis infused products. For purposes of this article, under no circumstances shall adult-use cannabis product include medical cannabis or hemp as defined in section three of the cannabis law.

(b) "Cannabis" means all parts of a plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. For purposes

1 of this article, cannabis does not include medical cannabis or hemp as
2 defined in section three of the cannabis law.

3 (c) "Cannabis flower" means the flower of a plant of the genus canna-
4 bis that has been harvested, dried, and cured, and prior to any process-
5 ing whereby the plant material is transformed into a concentrate,
6 including, but not limited to, concentrated cannabis, or an edible or
7 topical product containing cannabis or concentrated cannabis and other
8 ingredients. Cannabis flower excludes leaves and stem.

9 (d) "Cannabis trim" means all parts of a plant of the genus cannabis
10 other than cannabis flowers that have been harvested, dried, and cured,
11 and prior to any processing whereby the plant material is transformed
12 into a concentrate, including, but not limited to, concentrated canna-
13 bis, or an edible or topical product containing cannabis and other
14 ingredients.

15 (e) "Cultivation" has the same meaning as described in subdivision two
16 of section sixty-eight of the cannabis law.

17 (f) "Cultivator" has the same meaning as described in subdivisions one
18 and two of section sixty-eight of the cannabis law.

19 (g) "Illicit cannabis" means and includes any adult-use cannabis prod-
20 uct or medical cannabis on which any tax required to have been paid
21 under this chapter has not been paid; or any adult-use cannabis or
22 medical cannabis product, the form, packaging, or content of which is
23 not permitted by the office of cannabis management, as applicable.

24 (h) "Person" means every individual, partnership, limited liability
25 company, society, association, joint stock company, corporation, estate,
26 receiver, trustee, assignee, referee, and any other person acting in a
27 fiduciary or representative capacity, whether appointed by a court or
28 otherwise, and any combination of the foregoing.

29 (i) "Processor" has the same meaning as described in subdivisions one
30 and two of section sixty-nine of the cannabis law.

31 (j) "Retail dispensary" means a dispensary licensed to sell adult-use
32 cannabis products pursuant to section seventy-two of the cannabis law.

33 (k) "Sale" means any transfer of title, possession or both, exchange
34 or barter, rental, lease or license to use or consume, conditional or
35 otherwise, in any manner or by any means whatsoever for a consideration
36 or any agreement therefor.

37 (l) "Transfer" means to grant, convey, hand over, assign, sell,
38 exchange or barter, in any manner or by any means, with or without
39 consideration.

40 (m) "Wet cannabis" means a whole plant of the genus cannabis that has
41 been harvested and weighed within two hours of harvesting and has not
42 undergone any processing, including, but not limited to drying, curing,
43 trimming or increasing the ambient temperature in the room in which such
44 plant is held.

45 § 493. Imposition of tax. (a) There is hereby imposed and shall be
46 paid a tax on the cultivation of the following: (1) cannabis flower at
47 the rate of one dollar per dry weight gram; (2) cannabis trim at the
48 rate of twenty-five cents per dry-weight gram; and (3) wet cannabis at
49 the rate of fourteen cents per gram. This tax shall be paid by the
50 person to whom such flower, trim, or wet cannabis has been sold or
51 transferred and shall accrue at the time of such sale or transfer. Where
52 a person who processes or distributes cannabis flower, cannabis trim, or
53 wet cannabis is licensed under the cannabis law as a microbusiness,
54 cooperative or registered organization, such person shall be liable for
55 the tax imposed by this subdivision.

1 (b) In addition to the tax imposed by subdivision (a) of this section,
2 there is hereby imposed a tax on the sale or transfer of adult-use
3 cannabis products by any person to a retail dispensary at the rate of
4 twenty percent of the amount charged by such person for such adult-use
5 cannabis products, which shall accrue at the time of such sale or trans-
6 fer. Where the retail dispensary is operated by a person licensed under
7 the cannabis law as a registered organization, such tax shall be paid by
8 the retail dispensary at the rate of twenty percent of the price charged
9 to the retail customer and shall accrue at the time of such sale.

10 (c) In addition to the taxes imposed by subdivisions (a) and (b) of
11 this section, there is hereby imposed a tax on the sale or transfer of
12 adult-use cannabis products by any person to a retail dispensary at the
13 rate of two percent of the amount charged by such person for such
14 adult-use cannabis products, which shall accrue at the time of such sale
15 or transfer. The tax imposed by this subdivision shall be in trust for
16 and on account of a city having a population of one million or more, or
17 a county, other than a county wholly within such a city, in which the
18 retail dispensary is located. Where the retail dispensary is operated
19 by a person licensed under the cannabis law as a registered organiza-
20 tion, such tax shall be paid by the retail dispensary at the rate of two
21 percent of the price charged to the retail customer.

22 (d) It shall be presumed that all adult-use cannabis products within
23 the state are subject to tax until the contrary is established, and the
24 burden of proof that the taxes imposed by subdivisions (a), (b), and (c)
25 of this section have been paid shall be upon the person in possession
26 thereof where such person holds any license under the cannabis law.
27 Every person holding a license under the cannabis law who possesses
28 adult-use cannabis products upon which such taxes have not been paid
29 shall be liable for the payment of such taxes, and the failure of such
30 person to produce to the commissioner or his or her authorized represen-
31 tative upon demand an invoice for any adult-use cannabis products in his
32 or her possession shall be presumptive evidence that the tax thereon has
33 not been paid and that such person is liable for the tax thereon, unless
34 evidence of such invoice or payment is later produced.

35 (e) Notwithstanding any other provision of law to the contrary, the
36 taxes imposed by article twenty of this chapter shall not apply to any
37 product subject to tax under this article.

38 § 494. Registration and renewal. (a) Every person to whom cannabis
39 flower, cannabis trim or wet cannabis is sold or transferred, and every
40 person licensed as a microbusiness, cooperative or registered organiza-
41 tion under the cannabis law must file with the commissioner a properly
42 completed application for a certificate of registration before engaging
43 in business. In order to apply for such certificate of registration,
44 such person must first be in possession of a valid license from the
45 office of cannabis management. An application for a certificate of
46 registration must be submitted electronically, on a form prescribed by
47 the commissioner, and must be accompanied by a non-refundable applica-
48 tion fee of six hundred dollars. A certificate of registration shall not
49 be assignable or transferable and shall be destroyed immediately upon
50 such person ceasing to do business as specified in such certificate, or
51 in the event that such business never commenced.

52 (b) The commissioner shall refuse to issue a certificate of registra-
53 tion to any applicant and shall revoke the certificate of registration
54 of any such person who does not possess a valid license from the office
55 of cannabis management. The commissioner may refuse to issue a certif-
56 icate of registration to any applicant where such applicant: (1) has a

1 past-due liability as that term is defined in section one hundred seven-
2 ty-one-v of this chapter; (2) has had a certificate of registration
3 under this article, a license from the office of cannabis management, or
4 any license or registration provided for in this chapter revoked within
5 one year from the date on which such application was filed; (3) has had
6 a certificate of registration under this article, a license from the
7 office of cannabis management, or any license or registration provided
8 for in this chapter suspended where the suspension is in effect on the
9 date the application is filed or ended less than one year from such
10 date; (4) has been convicted of a crime provided for in this chapter
11 within one year from the date on which such application was filed or the
12 certificate was issued as applicable; (5) willfully fails to file a
13 report or return required by this article; (6) willfully files, causes
14 to be filed, gives or causes to be given a report, return, certificate
15 or affidavit required by this article which is false; or (7) willfully
16 fails to collect or truthfully account for or pay over any tax imposed
17 by this article.

18 (c) A certificate of registration shall be valid for the period speci-
19 fied thereon, unless earlier suspended or revoked. Upon the expiration
20 of the term stated on a certificate of registration, such certificate
21 shall be null and void.

22 (d) Every holder of a certificate of registration must notify the
23 commissioner of changes to any of the information stated on the certif-
24 icate, or of changes to any information contained in the application for
25 the certificate of registration. Such notification must be made on or
26 before the last day of the month in which a change occurs and must be
27 made electronically on a form prescribed by the commissioner.

28 (e) Every holder of a certificate of registration under this article
29 shall be required to reapply prior to such certificate's expiration,
30 during a reapplication period established by the commissioner. Such
31 reapplication period shall not occur more frequently than every two
32 years. Such reapplication shall be subject to the same requirements and
33 conditions as an initial application, including grounds for refusal and
34 the payment of the application fee.

35 (f) Any person who is required to obtain a certificate of registration
36 under subdivision (a) of this section who possesses adult-use cannabis
37 products without such certificate shall be subject to a penalty of five
38 hundred dollars for each month or part thereof during which adult-use
39 cannabis products are possessed without such certificate, not to exceed
40 ten thousand dollars in the aggregate.

41 § 495. Returns and payment of tax. Every person to whom cannabis
42 flower, cannabis trim or wet cannabis is sold or transferred, and every
43 person licensed as a microbusiness, cooperative or registered organiza-
44 tion under the cannabis law shall, on or before the twentieth day of the
45 month, file with the commissioner a return on forms to be prescribed by
46 the commissioner, showing the total weight of cannabis flower, cannabis
47 trim, and wet cannabis subject to tax pursuant to subdivision (a) of
48 section four hundred ninety-three of this article and the total amount
49 of tax due thereon in the preceding calendar month, and the total amount
50 of tax due under subdivisions (b) and (c) of such section on its sales
51 or transfers to, or sales by, a retail dispensary during the preceding
52 calendar month, along with such other information as the commissioner
53 may require. Every person required to file a return under this section
54 shall, at the time of filing such return, pay to the commissioner the
55 total amount of tax due for the period covered by such return. If a

1 return is not filed when due, the tax shall be due on the day on which
2 the return is required to be filed.

3 § 496. Records to be kept; penalties. (a) Records to be kept. Every
4 person to whom cannabis flower, cannabis trim or wet cannabis is sold or
5 transferred, and every person licensed as a microbusiness, cooperative
6 or registered organization under the cannabis law shall maintain
7 complete and accurate records in such form as the commissioner may
8 require including, but not limited to, such items as the weight of the
9 cannabis flower, cannabis trim, and wet cannabis sold or transferred to
10 or produced by such person; the geographic location of every retail
11 dispensary to which such person sold or transferred adult-use cannabis
12 products; and any other record or information required by the commis-
13 sioner. Such records must be preserved for a period of three years after
14 the filing of the return to which such records relate and must be
15 provided to the commissioner upon request.

16 (b) Penalties. In addition to any other penalty provided in this arti-
17 cle or otherwise imposed by law: every person to whom cannabis flower,
18 cannabis trim or wet cannabis is sold or transferred, and every person
19 licensed as a microbusiness, cooperative or registered organization
20 under the cannabis law who fails to maintain or make available to the
21 commissioner the records required by this section is subject to a penal-
22 ty not to exceed five hundred dollars for the first month or part there-
23 of for which the failure occurs. This penalty may not be imposed more
24 than once for failures for the same monthly period or part thereof. If
25 the commissioner determines that a failure to maintain or make available
26 records in any month was entirely due to reasonable cause and not to
27 willful neglect, the commissioner must remit the penalty for that month.

28 § 496-a. Returns to be secret. (a) Except in accordance with proper
29 judicial order or as in this section or otherwise provided by law, it
30 shall be unlawful for the commissioner, any officer or employee of the
31 department, or any officer or person who, pursuant to this section, is
32 permitted to inspect any return or report or to whom a copy, an abstract
33 or a portion of any return or report is furnished, or to whom any infor-
34 mation contained in any return or report is furnished, or any person who
35 in any manner may acquire knowledge of the contents of a return or
36 report filed pursuant to this article to divulge or make known in any
37 manner the content or any other information contained in any return or
38 report required under this article. The officers charged with the custo-
39 dy of such returns or reports shall not be required to produce any of
40 them or evidence of anything contained in them in any action or proceed-
41 ing in any court, except on behalf of the state, the office of cannabis
42 management, or the commissioner in an action or proceeding involving the
43 collection of tax due under this chapter to which the state or the
44 commissioner is a party or a claimant or on behalf of any party to any
45 action or proceeding under the provisions of this article, when the
46 returns or the reports or the facts shown thereby are directly involved
47 in such action or proceeding, or in an action or proceeding related to
48 the regulation or taxation of adult-use cannabis products on behalf of
49 officers to whom information shall have been supplied as provided in
50 this section, in any of which events the courts may require the
51 production of, and may admit in evidence so much of said returns or
52 reports or of the facts shown thereby as are pertinent to the action or
53 proceeding and no more. Nothing herein shall be construed to prohibit
54 the commissioner, in his or her discretion, from allowing the inspection
55 or delivery of a certified copy of any return or report filed under this
56 article or of any information contained in any such return or report by

1 or to a duly authorized officer or employee of the office of cannabis
2 management or by or to the attorney general or other legal represen-
3 tatives of the state when an action shall have been recommended or
4 commenced pursuant to this chapter in which such returns or reports or
5 the facts shown thereby are directly involved; or the inspection of the
6 returns or reports required under this article by the comptroller or
7 duly designated officer or employee of the state department of audit and
8 control, for purposes of the audit of a refund of any tax paid by the
9 wholesaler under this article; nor to prohibit the delivery to such
10 person or a duly authorized representative of such person, a certified
11 copy of any return or report filed by such person pursuant to this arti-
12 cle, nor to prohibit the publication of statistics so classified as to
13 prevent the identification of particular returns or reports and the
14 items thereof. This section shall also not be construed to prohibit the
15 disclosure, for tax administration purposes, to the division of the
16 budget and the office of the state comptroller, of information aggre-
17 gated from the returns filed by all persons subject to the taxes imposed
18 by this article, whether the number of such persons is one or more.
19 Provided further that, notwithstanding the provisions of this subdivi-
20 sion, the commissioner may, in his or her discretion, permit the proper
21 officer of any city having a population of one million or more and a
22 county, other than a county wholly within such a city, entitled to
23 receive any distribution of the monies received on account of the tax
24 imposed by subdivision (c) of section four hundred ninety-three of this
25 article, or the authorized representative of such officer, to inspect
26 any return filed under this article, or may furnish to such officer or
27 the officer's authorized representative an abstract of any such return
28 or supply such officer or representative with information concerning an
29 item contained in any such return, or disclosed by any investigation of
30 tax liability under this article.

31 (b) The commissioner, in his or her discretion, may permit the appro-
32 priate officers of any other state that regulates or taxes cannabis or
33 the duly authorized representatives of any such officers, to inspect
34 returns or reports made pursuant to this article, or may furnish to such
35 other officers, or their duly authorized representatives, a copy of any
36 such return or report or an abstract of the information therein
37 contained, or any portion thereof, or may supply any such officers or
38 such representatives with information relating to the business of a
39 person making returns or reports hereunder solely for purposes of tax
40 administration. The commissioner may refuse to supply information pursu-
41 ant to this subdivision to the officers of any other state if the stat-
42 utes of the state represented by such officers do not grant substantial-
43 ly similar privileges to the commissioner, but such refusal shall not be
44 mandatory. Information shall not be supplied to the officers of any
45 state that regulates or taxes cannabis, or the duly authorized represen-
46 tatives of any such officers, unless such officers or other represen-
47 tatives shall agree not to divulge or make known in any manner the
48 information so supplied, but such officers may transmit such information
49 to their employees or legal representatives when necessary, who in turn
50 shall be subject to the same restrictions as those hereby imposed upon
51 such officers or other representatives.

52 (c) Any officer or employee of the state who willfully violates the
53 provisions of subdivision (a) or (b) of this section shall be dismissed
54 from office and be incapable of holding any public office in this state
55 for a period of five years thereafter, and subject to criminal penalties
56 pursuant to article thirty-seven of this chapter.

1 § 496-b. Administrative provisions. (a) The provisions of article
2 twenty-seven of this chapter shall apply to the tax imposed by this
3 article in the same manner and with the same force and effect as if the
4 language of such article had been incorporated in full into this section
5 and had expressly referred to the tax imposed by this article, except to
6 the extent that any provision of such article is either inconsistent
7 with a provision of this article or is not relevant to this article.

8 (b)(1) All taxes, interest, and penalties collected or received by the
9 commissioner under this article shall be deposited and disposed of
10 pursuant to the provisions of section one hundred seventy-one-a of this
11 chapter, provided that an amount equal to one hundred percent collected
12 under this article less any amount determined by the commissioner to be
13 reserved by the comptroller for refunds or reimbursements shall be paid
14 by the comptroller to the credit of the cannabis revenue fund estab-
15 lished by section ninety-nine-hh of the state finance law. Of the total
16 revenue collected or received under this article, the comptroller shall
17 retain such amount as the commissioner may determine to be necessary for
18 refunds. The commissioner is authorized and directed to deduct from the
19 registration fees under subdivision (a) of section four hundred ninety-
20 four of this article, before deposit into the cannabis revenue fund
21 designated by the comptroller, a reasonable amount necessary to effectuate
22 refunds of appropriations of the department to reimburse the depart-
23 ment for the costs incurred to administer, collect, and distribute the
24 taxes imposed by this article.

25 (2) Notwithstanding the foregoing, the commissioner shall certify to
26 the comptroller the total amount of tax, penalty and interest received
27 by him or her on account of the tax imposed by subdivision (c) of
28 section four hundred ninety-three of this article in trust for and on
29 account of a city having a population of one million or more and a coun-
30 ty, other than a county wholly within such a city, in which a retail
31 dispensary is located. On or before the twelfth day of each month, the
32 comptroller, after reserving such refund fund, shall pay to the appro-
33 priate fiscal officer of each such city having a population of one
34 million or more and a county, other than a county wholly within such a
35 city, the taxes, penalties and interest received and certified by the
36 commissioner for the preceding calendar month.

37 § 496-c. Illicit cannabis penalty. (a) In addition to any other civil
38 or criminal penalties that may apply, any person in possession of or
39 having control over illicit cannabis, as defined in section four hundred
40 ninety-two of this article, after notice and an opportunity for a hear-
41 ing, shall be liable for a civil penalty of not less than four hundred
42 dollars per ounce of illicit cannabis plant material, ten dollars per
43 milligram of tetrahydrocannabinol contained in illicit cannabis infused
44 products, one hundred dollars per gram of illicit cannabis concentrate
45 or extract, two hundred fifty dollars per immature illicit cannabis
46 plant, and one thousand dollars per mature cannabis plant, but not to
47 exceed eight hundred dollars per ounce of illicit cannabis plant materi-
48 al, twenty dollars per milligram of tetrahydrocannabinol contained in
49 illicit cannabis infused products, two hundred dollars per gram of
50 illicit cannabis concentrate or extract, five hundred dollars per imma-
51 ture illicit cannabis plant, and two thousand dollars per mature canna-
52 bis plant for a first violation, and for a second or subsequent
53 violation within three years following a prior violation shall be liable
54 for a civil penalty of not less than eight hundred dollars per ounce of
55 illicit cannabis plant material, twenty dollars per milligram of tetra-
56 hydrocannabinol contained in illicit cannabis infused products, two

1 hundred dollars per gram of illicit cannabis concentrate or extract,
2 five hundred dollars per immature illicit cannabis plant, and two thou-
3 sand dollars per mature cannabis plant but not to exceed one thousand
4 dollars per ounce of illicit cannabis plant material, forty dollars per
5 milligram of tetrahydrocannabinol contained in illicit cannabis infused
6 products, four hundred dollars per gram of illicit cannabis concentrate
7 or extract, one thousand dollars per immature illicit cannabis plant,
8 and four thousand dollars per mature cannabis plant.

9 (b) No enforcement action taken under this section shall be construed
10 to limit any other criminal or civil liability of anyone in possession
11 of illicit cannabis.

12 § 38. Subdivision (a) of section 1115 of the tax law is amended by
13 adding a new paragraph 3-b to read as follows:

14 (3-b) Adult-use cannabis products as defined by article twenty-C of
15 this chapter.

16 § 39. Intentionally omitted.

17 § 40. Section 12 of chapter 90 of the laws of 2014 amending the public
18 health law, the tax law, the state finance law, the general business
19 law, the penal law and the criminal procedure law relating to medical
20 use of marihuana, is amended to read as follows:

21 § 12. This act shall take effect immediately ~~[and]~~; provided, however
22 that sections one, three, five, seven-a, eight, nine, ten and eleven of
23 this act shall expire and be deemed repealed seven years after such
24 date; provided that the amendments to section 171-a of the tax law made
25 by section seven of this act shall take effect on the same date and in
26 the same manner as section 54 of part A of chapter 59 of the laws of
27 2014 takes effect and shall not expire and be deemed repealed; and
28 provided, further, that the amendments to subdivision 5 of section
29 410.91 of the criminal procedure law made by section eleven of this act
30 shall not affect the expiration and repeal of such section and shall
31 expire and be deemed repealed therewith.

32 § 41. The office of cannabis management, in consultation with the
33 division of the budget, the department of taxation and finance and the
34 department of health shall conduct a study of the effectiveness of this
35 act. Such study shall examine all aspects of the program, including the
36 economic and fiscal aspects of the program, the impact of the program on
37 the public health and safety of New York residents and the progress made
38 in achieving social justice goals and toward eliminating the illegal
39 market for cannabis products in New York. The office shall make recom-
40 mendations regarding the appropriate level of taxation as well as any
41 recommended changes to the taxation and regulatory structure of the
42 program. In addition, the office shall also recommend changes, if any,
43 necessary to improve and protect the public health and safety of New
44 Yorkers. Such study shall be conducted two years after the effective
45 date of this act and shall be presented to the governor, the temporary
46 president of the senate and the speaker of the assembly, no later than
47 October 1, 2023.

48 § 42. Section 102 of the alcoholic beverage control law is amended by
49 adding a new subdivision 8 to read as follows:

50 8. No alcoholic beverage retail licensee shall sell cannabis, nor have
51 or possess a license or permit to sell cannabis, on the same premises
52 where alcoholic beverages are sold.

53 § 43. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the
54 general obligations law, as added by chapter 406 of the laws of 2000,
55 are amended to read as follows:

1 1. "Illegal drug" means any controlled substance [~~or marijuana~~] the
2 possession of which is an offense under the public health law or the
3 penal law.

4 4. "Grade one violation" means possession of one-quarter ounce or
5 more, but less than four ounces, or distribution of less than one ounce
6 of an illegal drug [~~other than marijuana, or possession of one pound or
7 twenty-five plants or more, but less than four pounds or fifty plants,
8 or distribution of less than one pound of marijuana~~].

9 5. "Grade two violation" means possession of four ounces or more, but
10 less than eight ounces, or distribution of one ounce or more, but less
11 than two ounces, of an illegal drug [~~other than marijuana, or possession
12 of four pounds or more or fifty plants or distribution of more than one
13 pound but less than ten pounds of marijuana~~].

14 6. "Grade three violation" means possession of eight ounces or more,
15 but less than sixteen ounces, or distribution of two ounces or more, but
16 less than four ounces, of a specified illegal drug [~~or possession of
17 eight pounds or more or seventy-five plants or more, but less than
18 sixteen pounds or one hundred plants, or distribution of more than five
19 pounds but less than ten pounds of marijuana~~].

20 7. "Grade four violation" means possession of sixteen ounces or more
21 or distribution of four ounces or more of a specified illegal drug [~~or
22 possession of sixteen pounds or more or one hundred plants or more or
23 distribution of ten pounds or more of marijuana~~].

24 13. "Drug trafficker" means a person convicted of a class A or class B
25 felony controlled substance [~~or marijuana offense~~] who, in connection
26 with the criminal conduct for which he or she stands convicted,
27 possessed, distributed, sold or conspired to sell a controlled substance
28 [~~or marijuana~~] which, by virtue of its quantity, the person's prominent
29 role in the enterprise responsible for the sale or distribution of such
30 controlled substance and other circumstances related to such criminal
31 conduct indicate that such person's criminal possession, sale or
32 conspiracy to sell such substance was not an isolated occurrence and was
33 part of an ongoing pattern of criminal activity from which such person
34 derived substantial income or resources and in which such person played
35 a leadership role.

36 § 44. Paragraph (g) of subdivision 1 of section 488 of the social
37 services law, as added by section 1 of part B of chapter 501 of the laws
38 of 2012, is amended to read as follows:

39 (g) "Unlawful use or administration of a controlled substance," which
40 shall mean any administration by a custodian to a service recipient of:
41 a controlled substance as defined by article thirty-three of the public
42 health law, without a prescription; or other medication not approved for
43 any use by the federal food and drug administration, except for the
44 administration of medical cannabis when such administration is in
45 accordance with article three of the cannabis law and any regulations
46 promulgated thereunder as well as the rules, regulations, policies, or
47 procedures of the state oversight agency or agencies governing such
48 custodians. It also shall include a custodian unlawfully using or
49 distributing a controlled substance as defined by article thirty-three
50 of the public health law, at the workplace or while on duty.

51 § 44-a. Subdivision 1 of section 151 of the social services law, as
52 amended by section 2 of part F of chapter 58 of the laws of 2014, is
53 amended to read as follows:

54 1. Unauthorized transactions. Except as otherwise provided in subdivi-
55 sion two of this section, no person, firm, establishment, entity, or
56 corporation (a) licensed under the provisions of the alcoholic beverage

1 control law to sell liquor and/or wine at retail for off-premises
2 consumption; (b) licensed to sell beer at wholesale and also authorized
3 to sell beer at retail for off-premises consumption; (c) licensed or
4 authorized to conduct pari-mutuel wagering activity under the racing,
5 pari-mutuel wagering and breeding law; (d) licensed to participate in
6 charitable gaming under article fourteen-H of the general municipal law;
7 (e) licensed to participate in the operation of a video lottery facility
8 under section one thousand six hundred seventeen-a of the tax law; (f)
9 licensed to operate a gaming facility under section one thousand three
10 hundred eleven of the racing, pari-mutuel wagering and breeding law;
11 ~~[ex]~~ (g) licensed to operate an adult-use cannabis retail dispensary
12 pursuant to the cannabis law: or (h) providing adult-oriented enter-
13 tainment in which performers disrobe or perform in an unclothed state
14 for entertainment, or making available the venue in which performers
15 disrobe or perform in an unclothed state for entertainment, shall cash
16 or accept any public assistance check or electronic benefit transfer
17 device issued by a public welfare official or department, or agent ther-
18 eof, as and for public assistance.

19 § 44-b. Subdivision 3 of section 151 of the social services law is
20 amended by adding a new paragraph (d) to read as follows:

21 (d) A violation of the provisions of subdivision one of this section
22 taking place at the licensed premises by a person, firm, establishment,
23 entity or corporation licensed pursuant to the cannabis law to operate
24 an adult-use cannabis retail dispensary shall subject such person, firm,
25 establishment, entity or corporation to penalties and injunctions pursu-
26 ant to section sixteen of article two of the cannabis law.

27 § 45. Paragraphs (e) and (f) of subdivision 1 of section 490 of the
28 social services law, as added by section 1 of part B of chapter 501 of
29 the laws of 2012, are amended and a new paragraph (g) is added to read
30 as follows:

31 (e) information regarding individual reportable incidents, incident
32 patterns and trends, and patterns and trends in the reporting and
33 response to reportable incidents is shared, consistent with applicable
34 law, with the justice center, in the form and manner required by the
35 justice center and, for facilities or provider agencies that are not
36 state operated, with the applicable state oversight agency which shall
37 provide such information to the justice center; ~~[and]~~

38 (f) incident review committees are established; provided, however,
39 that the regulations may authorize an exemption from this requirement,
40 when appropriate, based on the size of the facility or provider agency
41 or other relevant factors. Such committees shall be composed of members
42 of the governing body of the facility or provider agency and other
43 persons identified by the director of the facility or provider agency,
44 including some members of the following: direct support staff, licensed
45 health care practitioners, service recipients and representatives of
46 family, consumer and other advocacy organizations, but not the director
47 of the facility or provider agency. Such committee shall meet regularly
48 to: (i) review the timeliness, thoroughness and appropriateness of the
49 facility or provider agency's responses to reportable incidents; (ii)
50 recommend additional opportunities for improvement to the director of
51 the facility or provider agency, if appropriate; (iii) review incident
52 trends and patterns concerning reportable incidents; and (iv) make
53 recommendations to the director of the facility or provider agency to
54 assist in reducing reportable incidents. Members of the committee shall
55 be trained in confidentiality laws and regulations, and shall comply
56 with section seventy-four of the public officers law~~[-]~~; and

(g) safe storage, administration, and diversion prevention policies regarding controlled substances and medical cannabis.

§ 46. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

§ 179.00 Criminal diversion of medical ~~[marihuana]~~ cannabis; definitions.

The following definitions are applicable to this article:

1. "Medical ~~[marihuana]~~ cannabis" means medical ~~[marihuana]~~ cannabis as defined in ~~[subdivision eight of section thirty-three hundred sixty of the public health law]~~ section three of the cannabis law.

2. "Certification" means a certification, made under section ~~[thirty-three hundred sixty-one of the public health law]~~ thirty of the cannabis law.

§ 179.05 Criminal diversion of medical ~~[marihuana]~~ cannabis; limitations.

The provisions of this article shall not apply to:

1. a practitioner authorized to issue a certification who acted in good faith in the lawful course of his or her profession; or

2. a registered organization as that term is defined in ~~[subdivision nine of section thirty-three hundred sixty of the public health law]~~ section thirty-four of the cannabis law who acted in good faith in the lawful course of the practice of pharmacy; or

3. a person who acted in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition.

§ 179.10 Criminal diversion of medical ~~[marihuana]~~ cannabis in the first degree.

A person is guilty of criminal diversion of medical ~~[marihuana]~~ cannabis in the first degree when he or she is a practitioner, as that term is defined in ~~[subdivision twelve of section thirty-three hundred sixty of the public health law]~~ section three of the cannabis law, who issues a certification with knowledge of reasonable grounds to know that (i) the recipient has no medical need for it, or (ii) it is for a purpose other than to treat a serious condition as defined in ~~[subdivision seven of section thirty-three hundred sixty of the public health law]~~ section three of the cannabis law.

Criminal diversion of medical ~~[marihuana]~~ cannabis in the first degree is a class E felony.

§ 179.11 Criminal diversion of medical ~~[marihuana]~~ cannabis in the second degree.

A person is guilty of criminal diversion of medical ~~[marihuana]~~ cannabis in the second degree when he or she sells, trades, delivers, or otherwise provides medical ~~[marihuana]~~ cannabis to another with knowledge or reasonable grounds to know that the recipient is not registered under ~~[title five-A of article thirty-three of the public health law]~~ article three of the cannabis law.

Criminal diversion of medical ~~[marihuana]~~ cannabis in the second degree is a class B misdemeanor.

§ 179.15 Criminal retention of medical ~~[marihuana]~~ cannabis.

A person is guilty of criminal retention of medical ~~[marihuana]~~ cannabis when, being a certified patient or designated caregiver, as those terms are defined in ~~[subdivisions three and five of section thirty-three hundred sixty of the public health law, respectively]~~ section three of the cannabis law, he or she knowingly obtains, possesses, stores or maintains an amount of ~~[marihuana]~~ cannabis in excess of the

1 amount he or she is authorized to possess under the provisions of [~~title~~
2 ~~five-A of article thirty-three of the public health law~~] article three
3 of the cannabis law.

4 Criminal retention of medical [~~marihuana~~] cannabis is a class A misde-
5 meanor.

6 § 47. Section 220.78 of the penal law, as added by chapter 154 of the
7 laws of 2011, is amended to read as follows:

8 § 220.78 Witness or victim of drug or alcohol overdose.

9 1. A person who, in good faith, seeks health care for someone who is
10 experiencing a drug or alcohol overdose or other life threatening
11 medical emergency shall not be charged or prosecuted for a controlled
12 substance offense under article two hundred twenty or a [~~marihuana~~]
13 cannabis offense under article two hundred twenty-one of this title,
14 other than an offense involving sale for consideration or other benefit
15 or gain, or charged or prosecuted for possession of alcohol by a person
16 under age twenty-one years under section sixty-five-c of the alcoholic
17 beverage control law, or for possession of drug paraphernalia under
18 article thirty-nine of the general business law, with respect to any
19 controlled substance, [~~marihuana~~] cannabis, alcohol or paraphernalia
20 that was obtained as a result of such seeking or receiving of health
21 care.

22 2. A person who is experiencing a drug or alcohol overdose or other
23 life threatening medical emergency and, in good faith, seeks health care
24 for himself or herself or is the subject of such a good faith request
25 for health care, shall not be charged or prosecuted for a controlled
26 substance offense under this article or a [~~marihuana~~] cannabis offense
27 under article two hundred twenty-one of this title, other than an
28 offense involving sale for consideration or other benefit or gain, or
29 charged or prosecuted for possession of alcohol by a person under age
30 twenty-one years under section sixty-five-c of the alcoholic beverage
31 control law, or for possession of drug paraphernalia under article thir-
32 ty-nine of the general business law, with respect to any substance,
33 [~~marihuana~~] cannabis, alcohol or paraphernalia that was obtained as a
34 result of such seeking or receiving of health care.

35 3. Definitions. As used in this section the following terms shall have
36 the following meanings:

37 (a) "Drug or alcohol overdose" or "overdose" means an acute condition
38 including, but not limited to, physical illness, coma, mania, hysteria
39 or death, which is the result of consumption or use of a controlled
40 substance or alcohol and relates to an adverse reaction to or the quan-
41 tity of the controlled substance or alcohol or a substance with which
42 the controlled substance or alcohol was combined; provided that a
43 patient's condition shall be deemed to be a drug or alcohol overdose if
44 a prudent layperson, possessing an average knowledge of medicine and
45 health, could reasonably believe that the condition is in fact a drug or
46 alcohol overdose and (except as to death) requires health care.

47 (b) "Health care" means the professional services provided to a person
48 experiencing a drug or alcohol overdose by a health care professional
49 licensed, registered or certified under title eight of the education law
50 or article thirty of the public health law who, acting within his or her
51 lawful scope of practice, may provide diagnosis, treatment or emergency
52 services for a person experiencing a drug or alcohol overdose.

53 4. It shall be an affirmative defense to a criminal sale controlled
54 substance offense under this article or a criminal sale of [~~marihuana~~]
55 cannabis offense under article two hundred twenty-one of this title, not
56 covered by subdivision one or two of this section, with respect to any

1 controlled substance or [~~marihuana~~] cannabis which was obtained as a
2 result of such seeking or receiving of health care, that:

3 (a) the defendant, in good faith, seeks health care for someone or for
4 him or herself who is experiencing a drug or alcohol overdose or other
5 life threatening medical emergency; and

6 (b) the defendant has no prior conviction for the commission or
7 attempted commission of a class A-I, A-II or B felony under this arti-
8 cle.

9 5. Nothing in this section shall be construed to bar the admissibility
10 of any evidence in connection with the investigation and prosecution of
11 a crime with regard to another defendant who does not independently
12 qualify for the bar to prosecution or for the affirmative defense; nor
13 with regard to other crimes committed by a person who otherwise quali-
14 fies under this section; nor shall anything in this section be construed
15 to bar any seizure pursuant to law, including but not limited to pursu-
16 ant to section thirty-three hundred eighty-seven of the public health
17 law.

18 6. The bar to prosecution described in subdivisions one and two of
19 this section shall not apply to the prosecution of a class A-I felony
20 under this article, and the affirmative defense described in subdivision
21 four of this section shall not apply to the prosecution of a class A-I
22 or A-II felony under this article.

23 § 48. Subdivision 1 of section 260.20 of the penal law, as amended by
24 chapter 362 of the laws of 1992, is amended as follows:

25 1. He knowingly permits a child less than eighteen years old to enter
26 or remain in or upon a place, premises or establishment where sexual
27 activity as defined by article one hundred thirty, two hundred thirty or
28 two hundred sixty-three of this [~~chapter~~] part or activity involving
29 controlled substances as defined by article two hundred twenty of this
30 [~~chapter or involving marihuana as defined by article two hundred twen-~~
31 ~~ty one of this chapter~~] part is maintained or conducted, and he knows or
32 has reason to know that such activity is being maintained or conducted;
33 or

34 § 49. Section 89-h of the state finance law, as added by chapter 90 of
35 the laws of 2014, is amended to read as follows:

36 § 89-h. Medical [~~marihuana~~] cannabis trust fund. 1. There is hereby
37 established in the joint custody of the state comptroller and the
38 commissioner of taxation and finance a special fund to be known as the
39 "medical [~~marihuana~~] cannabis trust fund."

40 2. The medical [~~marihuana~~] cannabis trust fund shall consist of all
41 moneys required to be deposited in the medical [~~marihuana~~] cannabis
42 trust fund pursuant to the provisions of section four hundred ninety of
43 the tax law.

44 3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be
45 kept separate and shall not be commingled with any other moneys in the
46 custody of the commissioner of taxation and finance and the state comp-
47 troller.

48 4. The moneys of the medical [~~marihuana~~] cannabis trust fund, follow-
49 ing appropriation by the legislature, shall be allocated upon a certif-
50 icate of approval of availability by the director of the budget as
51 follows: (a) Twenty-two and five-tenths percent of the monies shall be
52 transferred to the counties in New York state in which the medical
53 [~~marihuana~~] cannabis was manufactured and allocated in proportion to the
54 gross sales originating from medical [~~marihuana~~] cannabis manufactured
55 in each such county; (b) twenty-two and five-tenths percent of the
56 moneys shall be transferred to the counties in New York state in which

1 the medical [~~marihuana~~] cannabis was dispensed and allocated in propor-
2 tion to the gross sales occurring in each such county; (c) five percent
3 of the monies shall be transferred to the office of [~~alcoholism and~~
4 ~~substance abuse services~~] addiction services and supports, which shall
5 use that revenue for additional drug abuse prevention, counseling and
6 treatment services; and (d) five percent of the revenue received by the
7 department shall be transferred to the division of criminal justice
8 services, which shall use that revenue for a program of discretionary
9 grants to state and local law enforcement agencies that demonstrate a
10 need relating to [~~title five A of article thirty three of the public~~
11 ~~health law~~] article three of the cannabis law; said grants could be used
12 for personnel costs of state and local law enforcement agencies. For
13 purposes of this subdivision, the city of New York shall be deemed to be
14 a county.

15 § 50. The state finance law is amended by adding a new section 99-hh
16 to read as follows:

17 § 99-hh. New York state cannabis revenue fund. 1. There is hereby
18 established in the joint custody of the state comptroller and the
19 commissioner of taxation and finance a special fund to be known as the
20 "New York state cannabis revenue fund" (the "fund").

21 2. Monies in the fund shall be kept separate from and shall not be
22 commingled with any other monies in the custody of the comptroller or
23 the commissioner of taxation and finance. Provided, however that any
24 monies of the fund not required for immediate use may, at the discretion
25 of the comptroller, in consultation with the director of the budget, be
26 invested by the comptroller in obligations of the United States or the
27 state. The proceeds of any such investment shall be retained by the fund
28 as assets to be used for purposes of the fund.

29 3. Except as set forth in subdivisions two and four of this section,
30 monies from the fund shall not be used to make payments for any purpose
31 other than the purposes set forth in subdivisions two and four of this
32 section.

33 4. The "New York state cannabis revenue fund" shall consist of monies
34 received by the commissioner of taxation and finance pursuant to subdivi-
35 sions (a) and (b) of section four hundred ninety-three of the tax law
36 and all other monies credited or transferred thereto from any other fund
37 or source. Monies of such fund shall be expended for the following
38 purposes: administration of the regulated cannabis program, data gather-
39 ing, monitoring and reporting, the governor's traffic safety committee,
40 implementation and administration of the initiatives and programs of the
41 social and economic equity plan in the office of cannabis management,
42 substance abuse, harm reduction and mental health treatment and
43 prevention, public health education and intervention, research on canna-
44 bis uses and applications, program evaluation and improvements, and any
45 other identified purpose recommended by the executive director of the
46 office of cannabis management and approved by the director of the budg-
47 et.

48 § 51. Subdivision 2 of section 3371 of the public health law, as
49 amended by chapter 90 of the laws of 2014, is amended to read as
50 follows:

51 2. The prescription monitoring program registry may be accessed, under
52 such terms and conditions as are established by the department for
53 purposes of maintaining the security and confidentiality of the informa-
54 tion contained in the registry, by:

55 (a) a practitioner, or a designee authorized by such practitioner
56 pursuant to paragraph (b) of subdivision two of section thirty-three

1 hundred forty-three-a [~~or section thirty-three hundred sixty-one~~] of
2 this article, for the purposes of: (i) informing the practitioner that a
3 patient may be under treatment with a controlled substance by another
4 practitioner; (ii) providing the practitioner with notifications of
5 controlled substance activity as deemed relevant by the department,
6 including but not limited to a notification made available on a monthly
7 or other periodic basis through the registry of controlled substances
8 activity pertaining to his or her patient; (iii) allowing the practi-
9 tioner, through consultation of the prescription monitoring program
10 registry, to review his or her patient's controlled substances history
11 as required by section thirty-three hundred forty-three-a [~~or section~~
12 ~~thirty-three hundred sixty-one~~] of this article; and (iv) providing to
13 his or her patient, or person authorized pursuant to paragraph (j) of
14 subdivision one of this section, upon request, a copy of such patient's
15 controlled substance history as is available to the practitioner through
16 the prescription monitoring program registry; or

17 (b) a pharmacist, pharmacy intern or other designee authorized by the
18 pharmacist pursuant to paragraph (b) of subdivision three of section
19 thirty-three hundred forty-three-a of this article, for the purposes of:
20 (i) consulting the prescription monitoring program registry to review
21 the controlled substances history of an individual for whom one or more
22 prescriptions for controlled substances or certifications for [~~marihua-~~
23 ~~na~~] cannabis is presented to the pharmacist, pursuant to section thir-
24 ty-three hundred forty-three-a of this article; and (ii) receiving from
25 the department such notifications of controlled substance activity as
26 are made available by the department; or

27 (c) an individual employed by a registered organization for the
28 purpose of consulting the prescription monitoring program registry to
29 review the controlled substances history of an individual for whom one
30 or more certifications for [~~marihuana~~] cannabis is presented to that
31 registered organization[, ~~pursuant to section thirty-three hundred~~
32 ~~sixty-four of this article~~]. Unless otherwise authorized by this arti-
33 cle, an individual employed by a registered organization will be
34 provided access to the prescription monitoring program in the sole
35 discretion of the commissioner.

36 § 52. Subdivision 3 of section 853 of the general business law, as
37 added by chapter 90 of the laws of 2014, is amended to read as follows:

38 3. This article shall not apply to any sale, furnishing or possession
39 which is for a lawful purpose under [~~title five-A of article thirty-~~
40 ~~three of the public health law~~] the cannabis law.

41 § 53. Subdivision 5 of section 410.91 of the criminal procedure law,
42 as amended by chapter 90 of the laws of 2014, is amended to read as
43 follows:

44 5. For the purposes of this section, a "specified offense" is an
45 offense defined by any of the following provisions of the penal law:
46 burglary in the third degree as defined in section 140.20, criminal
47 mischief in the third degree as defined in section 145.05, criminal
48 mischief in the second degree as defined in section 145.10, grand larceny
49 in the fourth degree as defined in subdivision one, two, three, four,
50 five, six, eight, nine or ten of section 155.30, grand larceny in the
51 third degree as defined in section 155.35 (except where the property
52 consists of one or more firearms, rifles or shotguns), unauthorized use
53 of a vehicle in the second degree as defined in section 165.06, criminal
54 possession of stolen property in the fourth degree as defined in subdivi-
55 sion one, two, three, five or six of section 165.45, criminal
56 possession of stolen property in the third degree as defined in section

1 165.50 (except where the property consists of one or more firearms,
2 rifles or shotguns), forgery in the second degree as defined in section
3 170.10, criminal possession of a forged instrument in the second degree
4 as defined in section 170.25, unlawfully using slugs in the first degree
5 as defined in section 170.60, criminal diversion of medical [~~marihuana~~]
6 ~~cannabis~~ in the first degree as defined in section 179.10 or an attempt
7 to commit any of the aforementioned offenses if such attempt constitutes
8 a felony offense; or a class B felony offense defined in article two
9 hundred twenty where a sentence is imposed pursuant to paragraph (a) of
10 subdivision two of section 70.70 of the penal law; or any class C, class
11 D or class E controlled substance [~~or marihuana~~] ~~cannabis~~ felony offense
12 as defined in article two hundred twenty or two hundred twenty-one.

13 § 54. Subdivision 5 of section 410.91 of the criminal procedure law,
14 as amended by section 8 of part AAA of chapter 56 of the laws of 2009,
15 is amended to read as follows:

16 5. For the purposes of this section, a "specified offense" is an
17 offense defined by any of the following provisions of the penal law:
18 burglary in the third degree as defined in section 140.20, criminal
19 mischief in the third degree as defined in section 145.05, criminal
20 mischief in the second degree as defined in section 145.10, grand larceny
21 in the fourth degree as defined in subdivision one, two, three, four,
22 five, six, eight, nine or ten of section 155.30, grand larceny in the
23 third degree as defined in section 155.35 (except where the property
24 consists of one or more firearms, rifles or shotguns), unauthorized use
25 of a vehicle in the second degree as defined in section 165.06, criminal
26 possession of stolen property in the fourth degree as defined in subdivision
27 one, two, three, five or six of section 165.45, criminal
28 possession of stolen property in the third degree as defined in section
29 165.50 (except where the property consists of one or more firearms,
30 rifles or shotguns), forgery in the second degree as defined in section
31 170.10, criminal possession of a forged instrument in the second degree
32 as defined in section 170.25, unlawfully using slugs in the first degree
33 as defined in section 170.60, or an attempt to commit any of the aforementioned
34 offenses if such attempt constitutes a felony offense; or a
35 class B felony offense defined in article two hundred twenty where a
36 sentence is imposed pursuant to paragraph (a) of subdivision two of
37 section 70.70 of the penal law; or any class C, class D or class E
38 controlled substance or [~~marihuana~~] ~~cannabis~~ felony offense as defined
39 in article two hundred twenty or two hundred twenty-one.

40 § 55. The criminal procedure law is amended by adding a new section
41 440.46-a to read as follows:

42 § 440.46-a Motion for resentence; persons convicted of certain marihuana
43 offenses.

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

52 2. Upon receiving a motion under subdivision one of this section the
53 court shall presume the movant satisfies the criteria in subdivision one
54 of this section unless the party opposing the motion proves by clear and
55 convincing evidence that the movant does not satisfy the criteria. If
56 the movant satisfies the criteria in subdivision one of this section,

1 the court shall grant the motion to vacate the sentence or to resentence
2 because it is legally invalid. In exercising its discretion, the court
3 may consider, but shall not be limited to, the following: (a) the
4 movant's criminal conviction history, including the type of crimes
5 committed, the extent of injury to victims, the length of prior prison
6 commitments, and the remoteness of the crimes. (b) the movant's disci-
7 plinary record and record of rehabilitation while incarcerated.

8 3. A person who is serving a sentence and resentenced pursuant to
9 subdivision two of this section shall be given credit for any time
10 already served and shall be subject to supervision for one year follow-
11 ing completion of his or her time in custody or shall be subject to
12 whatever supervision time he or she would have otherwise been subject to
13 after release, whichever is shorter, unless the court, in its
14 discretion, as part of its resentencing order, releases the person from
15 supervision. Such person is subject to parole supervision under section
16 60.04 of the penal law or post-release supervision under section 70.45
17 of the penal law by the designated agency and the jurisdiction of the
18 court in the county in which the offender is released or resides, or in
19 which an alleged violation of supervision has occurred, for the purpose
20 of hearing petitions to revoke supervision and impose a term of custody.

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

25 5. A person who has completed his or her sentence for a conviction
26 under the former article two hundred twenty-one of the penal law, wheth-
27 er by trial or open or negotiated plea, who would not have been guilty
28 of an offense or who would have been guilty of a lesser offense on and
29 after the effective date of this section had this section been in effect
30 at the time of his or her conviction, may file an application before the
31 trial court that entered the judgment of conviction in his or her case
32 to have the conviction, in accordance with article two hundred twenty-
33 one of the penal law: (a) dismissed because the prior conviction is now
34 legally invalid and sealed in accordance with section 160.50 of this
35 chapter; (b) redesignated (or "reclassified") as a violation and sealed
36 in accordance with section 160.50 of this chapter; or (c) redesignated
37 (reclassified) as a misdemeanor.

38 6. The court shall presume the petitioner satisfies the criteria in
39 subdivision five of this section unless the party opposing the applica-
40 tion proves by clear and convincing evidence that the petitioner does
41 not satisfy the criteria in subdivision five of this section. Once the
42 applicant satisfies the criteria in subdivision five of this section,
43 the court shall redesignate (or "reclassify") the conviction as a misde-
44 meanor, redesignate (reclassify) the conviction as a violation and seal
45 the conviction, or dismiss and seal the conviction as legally invalid
46 under this section had this section been in effect at the time of his or
47 her conviction.

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

50 8. Any felony conviction that is vacated and resentenced under subdivi-
51 sion two or designated as a misdemeanor or violation under subdivision
52 six of this section shall be considered a misdemeanor or violation for
53 all purposes. Any misdemeanor conviction that is vacated and resentenced
54 under subdivision two of this section or designated as a violation under
55 subdivision six of this section shall be considered a violation for all
56 purposes.

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

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

6 11. Nothing in this and related sections is intended to diminish or
7 abrogate the finality of judgments in any case not falling within the
8 purview of this section.

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

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

19 § 56. Transfer of employees. Notwithstanding any other provision of
20 law, rule, or regulation to the contrary, upon the transfer of any func-
21 tions from the department of health to the office of cannabis management
22 for the regulation and control of medical cannabis pursuant to this act,
23 employees performing those functions shall be transferred to the office
24 of cannabis management pursuant to subdivision 2 of section 70 of the
25 civil service law. Employees transferred pursuant to this section shall
26 be transferred without further examination or qualification and shall
27 retain their respective civil service classifications, status and
28 collective bargaining unit designations and collective bargaining agree-
29 ments. The civil service department may re-classify any person employed
30 in a permanent, classified, competitive, or exempt class position imme-
31 diately prior to being transferred to the office of cannabis management
32 pursuant to subdivision 2 of section 70 of the civil service law, to
33 align with the duties and responsibilities of their positions upon
34 transfer. Employees whose positions are subsequently re-classified to
35 align with the duties and responsibilities of their positions upon being
36 transferred to the office of cannabis management shall hold such posi-
37 tions without further examination or qualification. Notwithstanding any
38 other provision of this act, the names of those competitive permanent
39 employees on promotion eligible lists in their former department shall
40 be added and interfiled on a promotion eligible list in the new office,
41 as the state civil service department deems appropriate.

42 § 57. Transfer of records. All books, papers, and property of the
43 department of health related to the administration of the medical mari-
44 juana program shall be deemed to be in the possession of the executive
45 director of the office of cannabis management and shall continue to be
46 maintained by the office of cannabis management.

47 § 58. Continuity of authority. For the purpose of succession of all
48 functions, powers, duties and obligations transferred and assigned to,
49 devolved upon and assumed by it pursuant to this act, the office of
50 cannabis management shall be deemed and held to constitute the continua-
51 tion of the department of health's medical marijuana program.

52 § 59. Completion of unfinished business. Any business or other matter
53 undertaken or commenced by the department of health pertaining to or
54 connected with the functions, powers, obligations and duties hereby
55 transferred and assigned to the office of cannabis management and pend-

ing on the effective date of this act, may be conducted and completed by the office of cannabis management.

§ 60. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the department of health pertaining to medical marijuana, including the functions and powers transferred and assigned pursuant to this act, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the office of cannabis management until duly modified or abrogated by the board of the office of cannabis management.

§ 61. Terms occurring in laws, contracts and other documents. Whenever the department of health, or commissioner thereof, is referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties hereby transferred to and assigned to the office of cannabis management, such reference or designation shall be deemed to refer to the board of cannabis management, or the executive director thereof, as applicable.

§ 62. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by any provisions of this act.

§ 63. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the department of health, or the commissioner thereof, shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the executive director of the office of cannabis management. In all such actions and proceedings, the executive director of the office of cannabis management, upon application to the court, shall be substituted as a party.

§ 63-a. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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

(i) sections 92, 93 and 109 of article 5 of the cannabis law as added by section two of this act shall take effect January 1, 2021;

(ii) section six-a of this act shall take effect on the same date as chapter 614 of the laws of 2019, takes effect;

(iii) the amendments to subdivision 1 of section 171-a of the tax law made by section thirty-four of this act shall not affect the expiration of such subdivision and shall expire therewith, when upon such date the provisions of section thirty-four-a of this act shall take effect;

(iv) the taxes imposed by section thirty-seven of this act shall apply on and after April 1, 2021 to: (1) the sale or transfer of cannabis flower, cannabis trim or wet cannabis to any person; (2) cultivation of cannabis flower, cannabis trim or wet cannabis by a person licensed under the cannabis law as a microbusiness, cooperative or registered organization; (3) the sale or transfer of adult-use cannabis products to a retail dispensary; and (4) the sale of adult-use cannabis products to a consumer by a retail dispensary operated by a person licensed under the cannabis law as a registered organization; and provided, further,

1 that the exemption provided by section thirty-eight of this act shall
2 apply to sales made or uses occurring on and after April 1, 2021;

3 (v) the amendments to article 179 of the penal law made by section
4 forty-six of this act shall not affect the repeal of such article and
5 shall be deemed to be repealed therewith;

6 (vi) the amendments to section 89-h of the state finance law made by
7 section forty-nine of this act shall not affect the repeal of such
8 section and shall be deemed repealed therewith;

9 (vii) the amendments to section 221.00 of the penal law made by
10 section fourteen of this act shall be subject to the expiration of such
11 section when upon such date the provisions of section fifteen of this
12 act shall take effect;

13 (viii) the amendments to subdivision 2 of section 3371 of the public
14 health law made by section fifty-one of this act shall not affect the
15 expiration of such subdivision and shall be deemed to expire therewith;

16 (ix) the amendments to subdivision 3 of section 853 of the general
17 business law made by section fifty-two of this act shall not affect the
18 repeal of such subdivision and shall be deemed to be repealed therewith;
19 and

20 (x) the amendments to subdivision 5 of section 410.91 of the criminal
21 procedure law made by section fifty-three of this act shall not affect
22 the repeal of such section and shall be subject to the expiration and
23 reversion of such subdivision when upon such date the provisions of
24 section fifty-four of this act shall take effect.

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

34 § 3. This act shall take effect immediately provided, however, that
35 the applicable effective date of Parts A through BB of this act shall be
36 as specifically set forth in the last section of such Parts.