STATE OF NEW YORK

854

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KRUEGER, BAILEY, BIAGGI, COMRIE, GIANARIS, HOYLMAN, JACKSON, KENNEDY, LIU, MAY, MYRIE, PARKER, RAMOS, RIVERA, SALAZAR, SANDERS, SAVINO, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT in relation to constituting 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 penal law, in relation to the growing and use of cannabis by persons twenty-one years of age or older; 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 state finance law, the executive law, the penal law, the alcoholic beverage control law, the general obligations law, the social services law, the agriculture and markets law and the vehicle and traffic law, in relation to making conforming changes; to amend the public health law, in relation to the definition of smoking; to amend the state finance law, in relation to establishing the New York state cannabis revenue fund, the New York state drug treatment and public education fund and the New York state community grants reinvestment fund; 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 certain provisions of the public health law relating to growing of cannabis and medical use of marihuana; to repeal article 221 of the penal law relating to offenses involving marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal certain provisions of the criminal procedure law relating to certain criminal actions; and to repeal

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

LBD02565-02-1

certain provisions of the agriculture and markets law relating to industrial hemp

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

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

§ 2. Chapter 7-A of the consolidated laws is enacted, to read as follows:

CHAPTER 7-A OF THE CONSOLIDATED LAWS
CANNABIS LAW
ARTICLE 1
SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT; DEFINITIONS

Section 1. Short title.
2. Legislative findings and intent.
3. Definitions.

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

§ 2. Legislative findings and intent. The legislature finds that existing marihuana laws have not been beneficial to the welfare of the general public. Existing laws have been ineffective in reducing or curbing marihuana use and have instead resulted in devastating collateral consequences including mass incarceration and other complex generational trauma, that inhibit an otherwise law-abiding citizen's ability to access housing, employment opportunities, and other vital services. Existing laws have also created an illicit market which represents a threat to public health and reduces the ability of the legislature to deter the accessing of marihuana by minors. Existing marihuana laws have disproportionately impacted African-American and Latinx communities.

The intent of this act is to regulate, control, and tax marihuana, heretofore known as cannabis, generate significant new revenue, make substantial investments in communities and people most impacted by marihuana criminalization to address the collateral consequences of such criminalization, prevent access to cannabis by those under the age of twenty-one years, reduce the illegal drug market and reduce violent crime, reduce participation of otherwise law-abiding citizens in the illicit market, end the racially disparate impact of existing cannabis laws, create new industries and increase employment and strengthen New York's agriculture sector.

Nothing in this act is intended to limit the authority of any district government agency or office or employers to enact and enforce policies pertaining to cannabis in the workplace, to allow driving under the influence of cannabis, to allow individuals to engage in conduct that endangers others, to allow smoking cannabis in any location where smoking tobacco is prohibited, or to require any individual to engage in any conduct that violates federal law or to exempt anyone from any requirement of federal law or pose any obstacle to the federal enforcement of federal law.

The legislature further finds and declares that it is in the best interest of the state to regulate medical cannabis, adult-use cannabis, cannabinoid hemp and hemp extracts under independent entities, known as the cannabis control board and the office of cannabis management.

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

1. "Applicant" means a resident of New York state who is a citizen of the United States or a person lawfully admitted for permanent residency in the United States aged twenty-one years or older applying for any cannabis or hemp licenses or special use permits issued by the New York state cannabis control board pursuant to this chapter; provided, however applicants for hemp licenses may be aged eighteen years or older.

2. "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.

3. "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 a percent delta-9 tetrahydrocannabinol.

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

5. "Cannabis" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp extract as defined by this section.

6. "Cannabis consumer" means a person twenty-one years of age or older acting in accordance with any provision of this chapter.

7. "Cannabis control board" means the New York state cannabis control board created pursuant to article two of this chapter.

8. "Cannabis flower" means the flower of a plant of the genus Cannabis that has been harvested, dried, and cured, prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis flower excludes leaves and stem.

9. "Cannabis product" or "adult-use cannabis product" means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

10. "Cannabis-infused products" means products that have been manufactured and contain either cannabis or concentrated cannabis and other ingredients that are intended for use or consumption.

11. "Cannabis trim" means all parts of the plant of the genus Cannabis other than cannabis flower that have been harvested, dried, and cured, but prior to any further processing.

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

13. "Certification" means a certification made under this chapter.

14. "Certified medical use" includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a certified patient's medical condition or symptoms associated with the patient's medical condition.

15. "Certified patient" means a patient who is a resident of New York state or receiving care and treatment in New York state as determined by the board in regulation, and is certified under this chapter.

16. "Chief equity officer" means the chief equity officer of the office of cannabis management.

17. "Commercial cannabis activity" means the production, cultivation, manufacturing, processing, possession, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as provided for in this chapter.

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

19. "Condition" means having one of the following conditions: cancer, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, post-traumatic stress disorder, pain that degrades health and functional capability where the use of medical cannabis is an alternative to opioid use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthritis, autism or any other condition certified by the practitioner.

20. "Cultivation" means growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis license- and permit-holders.

21. "Delivery" means the direct delivery of cannabis products by a retail licensee, microbusiness licensee, or delivery license holder to a cannabis consumer.

22. "Designated caregiver facility" means a general hospital or residential health care facility operating pursuant to article twenty-eight of the public health law; an adult care facility operating pursuant to title two of article seven of the social services law; a community mental health residence established pursuant to section 41.44 of the mental hygiene law; a hospital operating pursuant to section 7.17 of the mental hygiene law; a mental hygiene facility operating pursuant to article thirty-one of the mental hygiene law; an inpatient or residential treatment program certified pursuant to article thirty-two of the mental hygiene law; a residential facility for the care and treatment of persons with developmental disabilities operating pursuant to article sixteen of the mental hygiene law; a residential treatment facility for children and youth operating pursuant to article thirty-one of the mental hygiene law; a private or public school; research institution with an internal review board; or any other facility as determined by the board in regulation; that registers with the office to assist one or

more certified patients with the acquisition, possession, delivery, transportation or administration of medical cannabis.

23. "Designated caregiver" means an individual designated by a certified patient in a registry application. A certified patient may designate up to five designated caregivers not counting designated caregiver facilities or designated caregiver facilities' employees.

24. "Designated caregiver facility employee" means an employee of a designated caregiver facility.

25. "Distributor" means any person who sells at wholesale any cannabis product, except medical cannabis, for the sale of which a license is required under the provisions of this chapter.

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

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

28. "Hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis. It shall not include "medical cannabis" as defined in this section.

29. "Hemp extract" means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers derived from hemp, used or intended for human consumption, for its cannabinoid content, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the department in regulation. For the purpose of this article, hemp extract excludes (a) any food, food ingredient or food additive that is generally recognized as safe pursuant to federal law; or (b) any hemp extract that is not used for human consumption. Such excluded substances shall not be regulated pursuant to the provisions of this article but are subject to other provisions of applicable state law, rules and regulations.

30. "Labor peace agreement" means an agreement between an entity and a labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the entity.

31. "Laboratory testing facility" means any independent laboratory capable of testing cannabis and cannabis products for adult-use and medical-use; cannabinoid hemp and hemp extract; or for all categories of cannabis and cannabis products as per regulations set forth by the state cannabis control board.

32. "License" means a written authorization as provided under this chapter permitting persons to engage in a specified activity authorized pursuant to this chapter.

33. "Licensee" means an individual or an entity who has been granted a license under this chapter.

34. "Medical cannabis" means cannabis as defined in this section, intended for a certified medical use, as determined by the board in consultation with the commissioner of health.

35. "Microbusiness" means a licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor and a cannabis retailer under this article; provided such licensee complies with all requirements imposed by this article on

licensed producers, processors, distributors and retailers to the extent the licensee engages in such activities.

36. "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

37. "Office" or "office of cannabis management" means the New York state office of cannabis management.

38. "On-site consumption" means the consumption of cannabis in an area licensed as provided for in this chapter.

39. "Owner" means an individual with an aggregate ownership interest of twenty percent or more in a cannabis business licensed pursuant to this chapter, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the licensed cannabis business.

40. "Package" means any container or receptacle used for holding cannabis or cannabis products.

41. "Permit" means a permit issued pursuant to this chapter.

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

43. "Practitioner" means a practitioner who is licensed, registered or certified by New York state to prescribe controlled substances within the state. Nothing in this chapter shall be interpreted so as to give any such person authority to act outside their scope of practice as defined by title eight of the education law. Additionally, nothing in this chapter shall be interpreted to allow any unlicensed, unregistered, or uncertified person to act in a manner that would require a license, registration, or certification pursuant to title eight of the education law.

44. "Processor" means a licensee that extracts concentrated cannabis and/or compounds, blends, extracts, infuses, or otherwise manufactures concentrated cannabis or cannabis products, but not the cultivation of the cannabis contained in the cannabis product.

45. "Registered organization" means an organization registered under article three of this chapter.

46. "Registry application" means an application properly completed and filed with the board by a certified patient under article three of this chapter.

47. "Registry identification card" means a document that identifies a certified patient or designated caregiver, as provided under this chapter.

48. "Retail sale" means to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee, of any cannabis, cannabis product, cannabinoid hemp or hemp extract product to a cannabis consumer for any purpose other than resale.

49. "Retailer" means any person who sells at retail any cannabis product, the sale of which a license is required under the provisions of this chapter.

50. "Small business" means small business as defined in section one hundred thirty-one of the economic development law, and shall apply for purposes of this chapter where any inconsistencies exist.

51. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains cannabis including the use of an electronic smoking device that creates an aerosol or vapor.

52. "Social and economic equity applicant" means an individual or an entity who is eligible for priority licensing pursuant to the criteria established in article four of this chapter.

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

54. "Warehouse" means and includes a place in which cannabis products are securely housed or stored.

55. "Wholesale" means to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee of any adult-use, medical-use cannabis or cannabis product, or cannabinoid hemp and hemp extract product for purposes of resale.

ARTICLE 2
NEW YORK STATE CANNABIS CONTROL BOARD

Section 7. Establishment of the cannabis control board or "board".
8. Establishment of an office of cannabis management.
9. Executive director.
10. Powers and duties of the cannabis control board.
11. Functions, powers and duties of the executive director; office of cannabis control.
12. Chief equity officer.
13. Rulemaking authority.
14. State cannabis advisory board.
15. Disposition of moneys received for license fees.
16. Violations of cannabis laws or regulations; penalties and injunctions.
17. Formal hearings; notice and procedure.
18. Ethics, transparency and accountability.

§ 7. Establishment of the cannabis control board or "board". 1. The cannabis control board is hereby created and shall consist of a chairperson nominated by the governor and with the advice and consent of the senate, with one vote, and four other voting board members as provided for in subdivision two of this section. In addition, the commissioners of the departments of environmental conservation, health, agriculture and markets, taxation and finance, the superintendent of financial services, and the director of the office of addiction services and supports or their designees shall serve as ex-officio members in an advisory capacity.

2. Appointments. The governor shall have three appointments with the advice and consent of the senate, the temporary president of the senate and the speaker of the assembly shall each have one appointment to the board. Appointments shall be for a term of three years each and shall be geographically and demographically representative of the state and communities historically affected by the war on drugs. Board members shall be citizens and permanent residents of this state. The chairperson and the remaining members of such board shall continue to serve as chairperson and members of the board until the expiration of the respective terms for which they were appointed. Upon the expiration of such respective terms the successors of such chairperson and members shall be appointed to serve for a term of three years each and until their successors have been appointed and qualified. The members shall when performing the work of the board, be compensated at a rate of two hundred sixty dollars per day, and together with an allowance for actual

and necessary expenses incurred in the discharge of their duties. No member or member's spouse or minor child shall have any interest in an entity regulated by the board.

3. Expenses. Each member of the board shall be entitled to their expenses actually and necessarily incurred by them in the performance of their duties.

4. Removal. Any member of the board may be removed by the governor for good cause after notice and an opportunity to be heard. A statement of the good cause for their removal shall be filed by the governor in the office of the secretary of state.

5. Vacancies; quorum. (A) In the event of a vacancy caused by the death, resignation, removal or inability to perform his or her duties of any board member, the vacancy shall be filled in the manner as the original appointment for the remainder of the unexpired term.

(B)(i) In the event of a vacancy caused by the death, resignation, removal, or inability to act of the chair, the vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Notwithstanding any other provision of law to the contrary, the governor shall designate one of the remaining board members to serve as acting chairperson for a period not to exceed six months or until a successor chairperson has been confirmed by the senate. Upon the expiration of the six month term, if the governor has nominated a successor chairperson, but the senate has not acted upon the nomination, the acting chairperson can continue to serve as acting chairperson for an additional ninety days or until the governor's successor chairperson nomination is confirmed by the senate, whichever comes first;

(ii) The governor shall provide immediate written notice to the temporary president of the senate and the speaker of the assembly of the designation of a board member as acting chairperson;

(iii) If (a) the governor has not nominated a successor chairperson upon the expiration of the six month term or (b) the senate does not confirm the governor's successor nomination within the additional ninety days, the board member designated as acting chairperson shall no longer be able to serve as acting chairperson and the governor is prohibited from extending the powers of that acting chairperson or from designating another board member to serve as acting chairperson; and

(iv) A board member serving as the acting chairperson of the cannabis control board shall be deemed a state officer for purposes of section seventy-three of the public officers law.

(C) A majority of the voting board members of the board shall constitute a quorum for the purpose of conducting the business thereof and a majority vote of all the members in office shall be necessary for action. Provided, however, that a board member designated as an acting chairperson pursuant to this chapter shall have only one vote for purposes of conducting the business of the cannabis control board.

6. Officers; employees; offices. (A) The board shall have power to appoint any necessary deputies, counsels, assistants, investigators, and other employees within the limits provided by appropriation. Investigators so employed by the board shall be deemed to be peace officers only for the purpose of enforcing the provisions of the cannabis law or judgments or orders obtained for violation thereof, with all the powers set forth in section 2.20 of the criminal procedure law. The counsel, secretary, chief executive officer, assistant chief executive officers, chief equity officer, confidential secretaries to board members and deputies shall be in the exempt class of the civil service. The other

assistants, investigators and employees of the office of cannabis management shall all be in the competitive class of the civil service and shall be considered for purposes of article fourteen of the civil service law to be public employees in the civil service of the state, and shall be assigned to the appropriate collective bargaining unit. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining units as they would have been assigned to were such titles created prior to the establishment of the office of cannabis management by this chapter.

The cannabis control board and office of cannabis management shall have its principal office in the city of Albany, and maintain branch offices in the cities of New York and Buffalo and such other places as it may deem necessary.

(B) The board shall establish appropriate procedures to ensure that hearing officers are shielded from ex parte communications with alleged violators and their attorneys and from other employees of the office of cannabis management and shall take such other steps as it shall deem necessary and proper to shield its judicial processes from unwarranted and inappropriate communications and attempts to influence.

7. Disqualification of members of the board and employees of the office of cannabis management. No member of the board or any officer, deputy, assistant, inspector or employee or spouse or minor child thereof shall have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where cannabis is manufactured or sold; nor shall they have any interest, direct or indirect, in any business wholly or partially devoted to the cultivation, manufacture, distribution, sale, transportation or storage of cannabis, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where cannabis or hemp extract is cultivated or manufactured, distributed, or sold, or in any business wholly or partially devoted to the cultivation, manufacture, distribution, sale, transportation or storage of cannabis or hemp extract or receive any commission or profit whatsoever, direct or indirect, from any person applying for or receiving any license or permit provided for in this chapter, or hold any other public office in the state or in any political subdivision except upon the written permission of the board, such member of the board or office of cannabis management or officer, deputy, assistant, inspector or employee thereof may hold the public office of notary public or member of a community board of education in the city school district of the city of New York. Anyone who violates any of the provisions of this section shall be removed.

§ 8. 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 an executive director.

§ 9. Executive director. The office shall exercise its authority, other than powers and duties specifically granted to the board, by and through an executive director nominated by the governor and confirmed by the senate. The executive director shall serve for a term of three years and once confirmed, may only be removed for good cause with appropriate notice. The executive director of the state office of cannabis management shall receive an annual salary not to exceed an amount appropriated therefor by the legislature and his or her expenses actually and

necessarily incurred in the performance of his or her official duties, unless otherwise provided by the legislature.

§ 10. Powers and duties of the cannabis control board. The cannabis control board or "board" shall have the following functions, powers and duties as provided for in this chapter:

1. Sole discretion to issue or refuse to issue any registration, license or permit provided for in this chapter.

2. Sole discretion to limit, or not to limit, the number of registrations, licenses and permits of each class to be issued within the state or any political subdivision thereof, in a manner that prioritizes social and economic equity applicants with the goal of fifty percent awarded to such applicants, and considers small business opportunities and concerns, avoids market dominance in sectors of the industry, and reflects the demographics of the state.

3. Sole discretion to revoke, cancel or suspend for cause any registration, license, or permit issued under this chapter and/or to impose a civil penalty for cause, after notice and an opportunity for a hearing, against any holder of a registration, license, or permit issued pursuant to this chapter.

4. To fix by rule and regulation the standards of cultivation and processing of medical cannabis, adult use cannabis and cannabis product, and cannabinoid hemp and hemp extract, including but not limited to, the ability to regulate potency and the types of products which may be manufactured and/or processed, in order to ensure the health and safety of the public and the use of proper ingredients and methods in the manufacture of all medical, adult-use, cannabinoid hemp and hemp extract to be sold or consumed in the state.

5. To limit or prohibit, at any time of public emergency and without previous notice or advertisement, the cultivation, processing, distribution or sale of any or all cannabis products, medical cannabis or cannabinoid hemp and hemp extract, for and during the period of such emergency.

6. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to examine any person under oath and in connection therewith to require the production of any books or records relative to the inquiry. A subpoena issued under this section shall be regulated by the civil practice law and rules.

7. To appoint any necessary directors, deputies, counsels, assistants, investigators, and other employees within the limits provided by appropriation. Directors, deputies and counsels shall be in the exempt class of the civil service. The other assistants, investigators and employees of the office shall all be in the competitive class of the civil service and shall be considered for purposes of article fourteen of the civil service law to be public employees of the state, and shall be assigned to the appropriate bargaining unit. Investigators so employed by the office shall be deemed to be peace officers only for the purposes of enforcing the provisions of this chapter or judgments or orders obtained for violation thereof, with all the powers set forth in section 2.20 of the criminal procedure law. Employees transferred to the office shall be transferred without further examination or qualification to the same or similar titles and shall remain in the same collective bargaining units and shall retain their respective civil service classifications, status and rights pursuant to their collective bargaining units and collective bargaining agreements. Employees serving in positions in newly created titles shall be assigned to the appropriate collective bargaining unit as they would have been assigned to were such titles created prior to

the establishment of the office of cannabis management. Any action taken under this subdivision shall be subject to and in accordance with the civil service law.

8. To inspect or provide authorization for the inspection at any time of any premises where medical cannabis, adult-use cannabis or cannabinoid hemp and hemp extract is cultivated, processed, stored, distributed or sold.

9. To prescribe forms of applications for registrations, licenses and permits under this chapter and of all reports deemed necessary by the board.

10. To appoint such advisory groups and committees as deemed necessary to provide assistance to the board to carry out the purposes and objectives of this chapter.

11. To exercise the powers and perform the duties in relation to the administration of the board and the office of cannabis management as are necessary but not specifically vested by this chapter, including but not limited to budgetary and fiscal matters.

12. To develop and establish minimum criteria for certifying employees to work in the cannabis industry in positions requiring advanced training and education.

13. To enter into contracts, memoranda of understanding, and agreements as deemed appropriate to effectuate the policy and purpose of this chapter.

14. To advise the urban development corporation in making low interest or zero-interest loans to qualified social and economic equity applicants as provided for in this chapter.

15. If public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order, summary suspension of a license may be ordered, effective on the date specified in such order or upon service of a certified copy of such order on the licensee, whichever shall be later, pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. In addition, the board may be directed to order the administrative seizure of product, issue a stop order, or take any other action necessary to effectuate and enforce the policy and purpose of this chapter.

16. To draft and provide for public comment and issue regulations, declaratory rulings, guidance and industry advisories.

17. To draft and provide an annual report on the effectiveness of this chapter no later than January first, two thousand twenty-three and annually thereafter. The annual report shall be prepared, in consultation with the division of the budget, the urban development corporation, the department of taxation and finance, the department of health, department of agriculture and markets, office of addiction services and supports, office of mental health, New York state police and the division of criminal justice services. The report shall provide, but not be limited to, the following information:

(a) the number of registrations, licenses, and permits applied for by geographic region of the state; the number of registrations, licenses, and permits approved or denied by geographic region of the state;

(b) the economic and fiscal impacts associated with this chapter, including revenue from licensing or other fees, fines and taxation related to the cultivation, distribution and sale of cannabis for medical and adult-use and cannabinoid hemp and hemp extract in this state;

(c) specific programs and progress made by the cannabis control board and the office of cannabis management in achieving the goals of the social and economic equity plan, and other social justice goals including, but not limited to, restorative justice, minority- and women-owned businesses, disadvantaged farmers business and service disabled veterans;

(d) collect demographic data on owners and employees in the medical cannabis, adult-use cannabis and cannabinoid hemp and hemp extract industry;

(e) impacts to public health and safety, including substance use disorder;

(f) impacts associated with public safety, including, but not limited to, traffic-related issues, law enforcement, under-age prevention in relation to accessing adult-use cannabis, and efforts to eliminate the illegal market for cannabis products in New York; and

(g) any other information or data deemed significant.

18. The board shall make recommendations regarding the appropriate level of taxation of adult-use cannabis, as well as changes necessary to: improve registration, licensing and permitting; promoting and encouraging social and economic equity applicants; improve and protect the public health and safety of New Yorkers; improve access and availability for substance abuse treatment programs; and any other recommendations deemed necessary and appropriate. Such report shall be presented to the governor, the majority leader of the senate and the speaker of the assembly, no later than January first, two thousand twenty-three and annually thereafter.

§ 11. Functions, powers and duties of the executive director; office of cannabis management. The executive director, as authorized by and through this chapter, shall have the following functions, powers and duties as provided for in this chapter:

1. To exercise the powers and perform the duties in relation to the administration of the office of cannabis management as are not specifically vested by this chapter in the cannabis control board.

2. To keep records in such form as he or she may prescribe of all registrations, licenses and permits issued and revoked within the state; such records shall be so kept as to provide ready information as to the identity of all licensees including the names of the officers and directors of corporate licensees and the location of all licensed premises. The executive director may contract to furnish copies of the records of licenses and permits of each class and type issued within the state or any political subdivision thereof, for any license or permit year or term of years not exceeding five years.

3. To inspect or provide for the inspection of any premises where medical cannabis, adult-use cannabis, hemp cannabis are manufactured or sold.

4. To prescribe forms of applications for licenses and permits under this chapter and of all reports deemed necessary by the board.

5. As authorized by the board, to inspect or provide for the inspection of any licensed or permitted premises where medical, adult-use or hemp is cultivated, processed, stored, distributed or sold.

6. To prescribe forms of applications for registrations, licenses and permits under this chapter and of all reports deemed necessary by the board.

7. To delegate the powers provided in this section to such other officers or employees as may be deemed appropriate by the executive director.

8. To exercise the powers and perform the duties as delegated by the board in relation to the administration of the office as are necessary, including but not limited to budgetary and fiscal matters.

9. To enter into contracts, memoranda of understanding, and agreements on the recommendation of the executive director and as authorized by the board to effectuate the policy and purpose of this chapter.

10. To advise and assist the board in carrying out any of its functions, powers and duties.

§ 12. Chief equity officer. The chief equity officer shall be nominated by the governor and confirmed by the senate. The chief equity officer shall receive an annual salary not to exceed an amount appropriated therefor by the legislature and their expenses actually and necessarily incurred in the performance of official duties, unless otherwise provided by the legislature.

1. The chief equity officer shall assist with the development and implementation of, and ensure the cannabis control board and the office of cannabis management's continued compliance with, the social and economic equity plan, required to be developed pursuant to article four of this chapter.

2. The chief equity officer shall establish public education programming dedicated to providing communities that have been impacted by cannabis prohibition with information detailing the licensing process and informing individuals of the support and resources that the office can provide to individuals and entities interested in participating in activity licensed under this chapter.

3. The chief equity officer shall provide a report to the legislature, no later than January first, two thousand twenty-three, and annually thereafter, of their activities in ensuring compliance with the social and economic equity plan, required to be developed pursuant to article four of this chapter.

§ 13. Rulemaking authority. 1. The board shall perform such acts, prescribe such forms and propose such rules, regulations and orders as it may deem necessary or proper to fully effectuate the provisions of this chapter.

2. The board shall, in consultation with the executive director, the chief equity officer and the state cannabis advisory board, have the authority to promulgate any and all necessary rules and regulations governing the cultivation, manufacture, processing, transportation, distribution, testing, delivery, and sale of medical cannabis, adult-use cannabis, and cannabinoid hemp and hemp extract, including but not limited to the registration of organizations authorized to sell medical cannabis, the licensing and/or permitting of adult-use cannabis cultivators, processors, cooperatives, microbusiness, distributors, laboratories, and retailers, and the licensing of cannabinoid hemp and hemp extract producers and processors pursuant to this chapter, including, but not limited to:

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

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

(c) the books and records to be created and maintained by all registered organizations, licensees, and permittees, including the reports to be made thereon to the office, and inspection of any and all books and records maintained by any registered organization, licensee, or permittee and on the premise of any registered organization, licensee, or permittee;

(d) methods of producing, processing, and packaging cannabis, medical cannabis, cannabis-infused products, concentrated cannabis, and cannabinoid hemp and hemp extract; conditions of sanitation, and standards of ingredients, quality, and identity of cannabis products cultivated, processed, packaged, or sold by any registered organizations and licensees;

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

(f) hearing procedures and additional causes for cancellation, suspension, revocation, and/or civil penalties against any person registered, licensed, or permitted by the authority.

3. The board, in consultation with the state cannabis advisory board, shall promulgate rules and regulations that are designed to:

(a) prevent the distribution of adult-use cannabis or cannabis product to persons under twenty-one years of age, including the modification of tobacco vaping products for use with cannabis;

(b) prevent the revenue from the sale of cannabis from going to criminal enterprises;

(c) prevent the diversion of cannabis from this state to other states;

(d) prevent cannabis, hemp, cannabinoid hemp and hemp extract activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(e) prevent driving while impaired and the exacerbation of other adverse public health consequences associated with the use of cannabis;

(f) prevent the growing of cannabis on public lands; and

(g) inform the public about the prohibition on the possession and use of cannabis on federal property.

4. The board, in consultation with the department of agriculture and markets and the department of environmental conservation, shall promulgate necessary rules and regulations governing the safe production of cannabis, including environmental and energy standards and restrictions on the use of pesticides and best practices for water and energy conservation.

5. Emergency rules and regulations: In adopting any emergency rule, the board shall comply with the provisions of subdivision six of section two hundred two of the state administrative procedure act and subdivision three of section one hundred one-a of the executive law; provided, however, that notwithstanding the provisions of such laws:

(a) Such emergency rule may remain in effect for no longer than one hundred twenty days, unless within such time the board complies with the provisions of such laws and adopts the rule as a permanent rule;

(b) If, prior to the expiration of a rule adopted pursuant to this paragraph, the board finds that the readoption of such rule on an emergency basis or the adoption of a substantially similar rule on an emergency basis is necessary for the preservation of the public health, safety or general welfare the agency may only readopt the rule on an emergency basis or adopt a substantially similar rule on an emergency basis if on or before the date of such action the board has also submitted a notice of proposed rule making pursuant to subdivision six of section two hundred two of the state administrative procedure act and subdivision three of section one hundred one-a of the executive law. An emergency rule adopted pursuant to this paragraph may remain in effect for no longer than one hundred twenty days;

(c) An emergency rule adopted pursuant to this subdivision or a substantially similar rule may be adopted on an emergency basis may remain in effect for no longer than one hundred twenty days, but upon the expiration of such one hundred twenty-day period no further readoptions or adoptions of substantially similar rules shall be permitted for a period of one hundred twenty days. Nothing in this subdivision shall preclude the adoption of such rule by submitting a notice of adoption pursuant to subdivision five of section two hundred two of the state administrative procedure act.

(d) Strict compliance with the provisions of this subdivision shall be required, and any emergency rule or substantially similar rule that does not so comply shall be void and of no legal effect.

§ 14. State cannabis advisory board. 1. The state cannabis advisory board or "advisory board" is established within the office of cannabis management and directed to work in collaboration with the cannabis control board and the executive director to regulate and control the use of medical cannabis, adult-use cannabis and cannabinoid hemp and hemp extract in the state of New York.

2. The state cannabis advisory board, shall consist of thirteen voting appointed members, along with the commissioners of environmental conservation, health, agriculture and markets and addiction services and supports serving as ex-officio members. The governor shall have seven appointments, the temporary president of the senate and the speaker of the assembly shall each have three appointments to the board. The members shall be appointed to each serve three year terms and in the event of a vacancy, the vacancy shall be filled in the manner of the original appointment for the remainder of the term. The appointed members and commissioners shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties as board members.

3. Advisory board members shall have statewide geographic representation that is balanced and diverse in its composition. Appointed members shall have an expertise in public and behavioral health, substance use disorder treatment, effective rehabilitative treatment for adults and juveniles, economic development, environmental conservation, job training and placement, criminal justice, and drug policy. Further, the advisory board shall include residents from communities most impacted by cannabis prohibition, people with prior drug convictions, the formerly incarcerated, and representatives of organizations serving communities impacted by past federal and state drug policies.

4. The chairperson of the advisory board and the vice chairperson shall be elected from among the members of the advisory board by the members of such advisory board. The vice chairperson shall represent the advisory board in the absence of the chairperson at all official advisory board functions.

5. The advisory board shall work in collaboration with the cannabis control board and the executive director prior to the adoption of any rules and regulations governing the medical cannabis, adult-use cannabis or cannabinoid hemp and hemp extract industries. The advisory board shall also make recommendations to the cannabis control board, the office and the legislature on cannabis and hemp cultivation, processing, distribution, transport, social and economic equity in the cannabis and hemp industries, criminal justice, public health and safety concerns, law enforcement related to cannabis and cannabis products, and on the testing and sale of cannabis and cannabis products.

§ 15. Disposition of moneys received for license fees. The board shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter and the size of the cannabis business being licensed, as follows:

1. The board shall charge each registered organization, licensee and permittee a registration, licensure or permit fee, and renewal fee, as applicable. The fees may vary depending upon the nature and scope of the different registration, licensure and permit activities.

2. The total fees assessed pursuant to this chapter shall be set at an amount that will generate sufficient total revenue to, at a minimum, fully cover the total costs of administering this chapter.

3. All registration and licensure fees shall be set on a scaled basis by the board, dependent on the size and capacity of the business and for social and economic equity applicants such fees may be assessed to accomplish the goals of this chapter.

4. The board shall deposit all fees collected in the New York state cannabis revenue fund established pursuant to section ninety-nine-ii of the state finance law.

§ 16. Violations of cannabis laws or regulations; penalties and injunctions. 1. Any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto for which a civil or criminal penalty is not otherwise expressly prescribed by law, shall be liable to the people of the state for a civil penalty of not to exceed five thousand dollars for every such violation.

2. The penalty provided for in subdivision one of this section may be recovered by an action brought by the board in any court of competent jurisdiction.

3. Such civil penalty may be released or compromised by the board before the matter has been referred to the attorney general, and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the board.

4. It shall be the duty of the attorney general upon the request of the board to bring an action for an injunction against any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto; provided, however, that the executive director shall furnish the attorney general with such material, evidentiary matter or proof as may be requested by the attorney general for the prosecution of such an action.

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

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

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

3. Notice and right of hearing as provided in the state administrative procedure act, shall be served at least fifteen days prior to the date of the hearing, provided that, whenever because of danger to the public health, safety or welfare it appears prejudicial to the interests of the people of the state to delay action for fifteen days, the board may serve the respondent with an order requiring certain action or the cessation of certain activities immediately or within a specified period of less than fifteen days.

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

5. At a hearing, that to the greatest extent practicable shall be reasonably near the respondent, the respondent may appear personally, shall have the right of counsel, and may cross-examine witnesses against him or her and produce evidence and witnesses in his or her behalf.

6. Following a hearing, the board may make appropriate determinations and issue a final order in accordance therewith.

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

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

§ 18. Ethics, transparency and accountability. No member of the board or office or any officer, deputy, assistant, inspector or employee, or spouse or minor child of such member, officer, assistant, inspector or employee thereof shall have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where adult-use cannabis, medical cannabis or cannabinoid hemp and hemp extract is cultivated, processed, distributed or sold; nor shall he or she have any interest, direct or indirect, in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of adult-use cannabis, medical cannabis or cannabinoid hemp and hemp extract, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where adult use cannabis, medical cannabis or cannabinoid hemp and hemp extract is cultivated, processed, distributed or sold, or in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of adult-use cannabis, medical cannabis or cannabinoid hemp and hemp extract, or receive any commission or profit whatsoever, direct or indirect, from any person applying for or receiving any license or permit provided for in this chapter, or hold any other elected or appointed public office in the state or in any political subdivision. After notice and opportunity to be heard, anyone found to have knowingly violated any of the provisions of this section shall, after notice, be removed and shall divest themselves of such direct or indirect interests, in addition to any other penalty provided by law.

ARTICLE 3
MEDICAL CANNABIS

Section 30. Certification of patients.
31. Lawful medical use.
32. Registry identification cards.
33. Registration as a designated caregiver facility.
34. Registered organizations.
35. Registering of registered organizations.
36. Reports of registered organizations.
37. Evaluation; research programs; report by board.
38. Cannabis research license.
39. Registered organizations and adult-use cannabis.
40. Relation to other laws.
41. Home cultivation of medical cannabis.
42. Protections for the medical use of cannabis.
43. Regulations.
44. Suspend; terminate.
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§ 30. Certification of patients. 1. A patient certification may only be issued if:

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

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

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

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

2. The certification shall include: (a) the name, date of birth and address of the patient; (b) a statement that the patient has a condition and the patient is under the practitioner's care for the condition; (c) a statement attesting that all requirements of subdivision one of this section have been satisfied; (d) the date; and (e) the name, address, telephone number, and the signature of the certifying practitioner. The board may require by regulation that the certification shall be on a form provided by the office. The practitioner may state in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified date. The practitioner may state in the certification that, in the practitioner's professional opinion, the patient is terminally ill and that the certification shall not expire until the patient dies.

3. In making a certification, the practitioner may consider the form of medical cannabis the patient should consume, including the method of consumption and any particular strain, variety, and quantity or percentage of cannabis or particular active ingredient, and appropriate dosage. The practitioner may state in the certification any recommendation or limitation the practitioner makes, in his or her professional opinion, concerning the appropriate form or forms of medical cannabis and dosage.

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

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

6. No practitioner shall issue a certification under this section for themselves.

7. A registry identification card based on a certification shall expire one year after the date the certification is signed by the practitioner, except as provided for in subdivision eight of this section.

8. (a) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified earlier date, then the registry identification card shall expire on that date; (b) if the practitioner states in the certification that in the practitioner's professional opinion the patient is terminally ill and that the certification shall not expire until the patient dies, then the registry identification card shall state that the patient is terminally ill and that the registration card shall not expire until the patient dies; (c) if the practitioner re-issues the certification to terminate the certification on an earlier date, then the registry identification card shall expire on that date and shall be promptly destroyed by the certified patient; (d) if the certification so provides, the registry identification card shall state any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient; and (e) the board shall make regulations to implement this subdivision.

9. (a) A certification may be a special certification if, in addition to the other requirements for a certification, the practitioner certifies in the certification that the patient's condition is progressive and degenerative or that delay in the patient's certified medical use of cannabis poses a risk to the patient's life or health.

(b) The office shall create the form to be used for a special certification and shall make that form available to be downloaded from the office's website.

10. Prior to issuing a certification a practitioner must complete, at a minimum, a two-hour course as determined by the board in regulation. For the purposes of this article a person's status as a practitioner is deemed to be a "license" for the purposes of section thirty-three hundred ninety of the public health law and shall be subject to the same revocation process.

§ 31. Lawful medical use. The possession, acquisition, use, delivery, transfer, transportation, or administration of medical cannabis by a certified patient, designated caregiver or the employees of a designated caregiver facility, for certified medical use, shall be lawful under this article provided that:

1. the cannabis that may be possessed by a certified patient shall not exceed a sixty-day supply of the dosage if determined by the practitioner, consistent with any guidance and regulations issued by the board, provided that during the last seven days of any sixty-day period, the certified patient may also possess up to such amount for the next sixty-day period;

2. the cannabis that may be possessed by designated caregivers does not exceed the quantities referred to in subdivision one of this section for each certified patient for whom the caregiver possesses a valid registry identification card, up to five certified patients;

3. the cannabis that may be possessed by designated caregiver facilities does not exceed the quantities referred to in subdivision one of this section for each certified patient under the care or treatment of the facility;

4. the form or forms of medical cannabis that may be possessed by the certified patient, designated caregiver or designated caregiver facility pursuant to a certification shall be in compliance with any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient in the certification;

5. the medical cannabis shall be kept in the original package in which it was dispensed under this article, except for the portion removed for immediate consumption for certified medical use by the certified patient; and

6. in the case of a designated caregiver facility, the employee assisting the patient has been designated as such by the designated caregiver facility.

§ 32. Registry identification cards. 1. Upon approval of the certification, the office shall issue registry identification cards for certified patients and designated caregivers. A registry identification card shall expire as provided in this article or as otherwise provided in this section. The office shall begin issuing registry identification cards as soon as practicable after the certifications required by this chapter are granted. The office may specify a form for a registry application, in which case the office shall provide the form on request, reproductions of the form may be used, and the form shall be available for downloading from the board's or office's website.

2. To obtain, amend or renew a registry identification card, a certified patient or designated caregiver shall file a registry application with the office, unless otherwise exempted by the board in regulation. The registry application or renewal application shall include:

(a) in the case of a certified patient:

(i) the patient's certification, a new written certification shall be provided with a renewal application;

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

(iii) the date of the certification;

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

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

(vi) the name, address, and telephone number of the certifying practitioner;

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

(viii) if the certified patient designates a designated caregiver, the name, address, and date of birth of the designated caregiver, and other individual identifying information required by the board;

(ix) if the designated caregiver is a cannabis research license holder under this chapter, the name of the organization conducting the research, the address, phone number, name of the individual leading the research or appropriate designee, and other identifying information required by the board; and

(x) other individual identifying information required by the office;

(b) in the case of a designated caregiver:

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

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

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

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

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

(e) any other requirements determined by the board.

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

(a) The application for a registry identification card shall be made by the person responsible for making health care decisions for the patient.

(b) The designated caregiver shall be: (i) a parent or legal guardian of the certified patient; (ii) a person designated by a parent or legal guardian; (iii) an employee of a designated caregiver facility, including a cannabis research license holder; or (iv) an appropriate person approved by the office upon a sufficient showing that no parent or legal guardian is appropriate or available.

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

5. No person may be a designated caregiver for more than five certified patients at one time; provided, however, that this limitation shall not apply to a designated caregiver facility, or cannabis research license holder as defined by this chapter.

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

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

8. The office shall issue separate registry identification cards for certified patients and designated caregivers as soon as reasonably practicable after receiving a complete application under this section, unless it determines that the application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

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

10. A registry identification card shall:

(a) contain the name of the certified patient or the designated caregiver as the case may be;

(b) contain the date of issuance and expiration date of the registry identification card;

(c) contain a registry identification number for the certified patient or designated caregiver, as the case may be and a registry identification number;

(d) contain a photograph of the individual to whom the registry identification card is being issued, which shall be obtained by the office in a manner specified by the board in regulations; provided, however, that if the office requires certified patients to submit photographs for

this purpose, there shall be a reasonable accommodation of certified patients who are confined to their homes due to their medical conditions and may therefore have difficulty procuring photographs;

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

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

(g) any other requirements determined by the board.

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

12. If a certified patient or designated caregiver loses his or her registry identification card, he or she shall notify the office within ten days of losing the card. The office shall issue a new registry identification card as soon as practicable, which may contain a new registry identification number, to the certified patient or designated caregiver, as the case may be.

13. The office shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual identifying information obtained by the office under this article shall be confidential and exempt from disclosure under article six of the public officers law.

14. The board shall verify to law enforcement personnel in an appropriate case whether a registry identification card is valid.

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

16. The board shall make regulations for special certifications, which shall include expedited procedures and which may require the applicant to submit additional documentation establishing the clinical basis for the special certification. If the board has not established and made available a form for a registry application or renewal application, or established and made available a form for a registry application or renewal application, then in the case of a special certification, a registry application or renewal application that otherwise conforms with the requirements of this section shall not require the use of a form.

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

(a) the facility's full name and address;

(b) operating certificate or license number where appropriate;

(c) printed name, title, and signature of an authorized facility representative;

(d) a statement that the facility agrees to secure and ensure proper handling of all medical cannabis products;

(e) an acknowledgement that a false statement in the application is punishable under section 210.45 of the penal law; and

(f) any other information that may be required by the board.

2. Prior to issuing or renewing a designated caregiver facility registration, the office may verify the information submitted by the appli-

cant. The applicant shall provide, at the office's request, such information and documentation, including any consents or authorizations that may be necessary for the office to verify the information.

3. The office shall approve, deny or determine incomplete or inaccurate an initial or renewal application within thirty days of receipt of the application. If the application is approved within the thirty-day period, the office shall issue a registration as soon as is reasonably practicable.

4. An applicant shall have thirty days from the date of a notification of an incomplete or factually inaccurate application to submit the materials required to complete, revise or substantiate information in the application. If the applicant fails to submit the required materials within such thirty-day time period, the application shall be denied by the office.

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

§ 34. Registered organizations. 1. A registered organization shall be a for-profit business entity or not-for-profit corporation organized for the purpose of acquiring, possessing, manufacturing, selling, delivering, transporting, distributing or dispensing cannabis for certified medical use.

2. The acquiring, possession, manufacture, sale, delivery, transporting, distributing or dispensing of medical cannabis by a registered organization under this article in accordance with its registration under this article or a renewal thereof shall be lawful under this chapter.

3. Each registered organization shall contract with an independent laboratory permitted by the board to test the medical cannabis produced by the registered organization. The board shall approve the laboratory used by the registered organization and may require that the registered organization use a particular testing laboratory. The board is authorized to issue regulations requiring the laboratory to perform certain tests and services.

4. (a) A registered organization may lawfully, in good faith, sell, deliver, distribute or dispense medical cannabis to a certified patient or designated caregiver upon presentation to the registered organization of a valid registry identification card for that certified patient or designated caregiver. When presented with the registry identification card, the registered organization shall provide to the certified patient or designated caregiver a receipt, which shall state: the name, address, and registry identification number of the registered organization; the name and registry identification number of the certified patient and the designated caregiver, if any; the date the cannabis was sold; any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient; and the form and the quantity of medical cannabis sold. The registered organization shall retain a copy of the registry identification card and the receipt for six years.

(b) The proprietor of a registered organization shall file or cause to be filed any receipt and certification information with the office by electronic means on a real-time basis as the board shall require by regulation. When filing receipt and certification information electronically pursuant to this paragraph, the proprietor of the registered organization shall dispose of any electronically recorded prescription information in such manner as the board shall by regulation require.

5. (a) No registered organization may sell, deliver, distribute or dispense to any certified patient or designated caregiver a quantity of medical cannabis larger than that individual would be allowed to possess under this chapter.

(b) When dispensing medical cannabis to a certified patient or designated caregiver, the registered organization: (i) shall not dispense an amount greater than a sixty-day supply to a certified patient until the certified patient has exhausted all but a seven day supply provided pursuant to a previously issued certification; and (ii) shall verify the information in subparagraph (i) of this paragraph by consulting the prescription monitoring program registry under this article.

(c) Medical cannabis dispensed to a certified patient or designated caregiver by a registered organization shall conform to any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient.

6. When a registered organization sells, delivers, distributes or dispenses medical cannabis to a certified patient or designated caregiver, it shall provide to that individual a safety insert, which will be developed by the registered organization and approved by the board and include, but not be limited to, information on:

(a) methods for administering medical cannabis,

(b) any potential dangers stemming from the use of medical cannabis,

(c) how to recognize what may be problematic usage of medical cannabis and obtain appropriate services or treatment for problematic usage, and

(d) other information as determined by the board.

7. Registered organizations shall not be managed by or employ anyone who has been convicted within three years of the date of hire, of any felony related to the functions or duties of operating a business, except that if the board determines that the manager or employee is otherwise suitable to be hired, and hiring the manager or employee would not compromise public safety, the board shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the manager or employee, and shall evaluate the suitability of the manager or employee based on the evidence found through the review. In determining which offenses are substantially related to the functions or duties of operating a business, the board shall include, but not be limited to, the following:

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

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

A felony conviction for the sale or possession of drugs, narcotics, or controlled substances is not substantially related. This subdivision shall only apply to managers or employees who come into contact with or handle medical cannabis.

8. Manufacturing of medical cannabis by a registered organization shall only be done in an indoor, enclosed, secure facility located in New York state, which may include a greenhouse. The board shall promulgate regulations establishing requirements for such facilities.

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

10. A registered organization may contract with a person or entity to provide facilities, equipment or services that are ancillary to the registered organization's functions or activities under this article including, but not limited to, shipping, maintenance, construction, repair, and security, provided that the person or entity shall not perform any function or activity directly involving the planting, growing, tending, harvesting, processing, or packaging of cannabis plants, medical cannabis, or medical cannabis products being produced by the registered organization; or any other function directly involving manufacturing or retailing of medical cannabis. All laws and regulations applicable to such facilities, equipment, or services shall apply to the contract. The registered organization and other parties to the contract shall each be responsible for compliance with such laws and regulations under the contract. The board may make regulations consistent with this article relating to contracts and parties to contracts under this subdivision.

11. A registered organization shall, based on the findings of an independent laboratory, provide documentation of the quality, safety and clinical strength of the medical cannabis manufactured or dispensed by the registered organization to the office and to any person or entity to which the medical cannabis is sold or dispensed.

12. A registered organization shall be deemed to be a "health care provider" for the purposes of title two-D of article two of the public health law.

13. Medical cannabis shall be dispensed to a certified patient or designated caregiver in a sealed and properly labeled package. The labeling shall contain: (a) the information required to be included in the receipt provided to the certified patient or designated caregiver by the registered organization; (b) the packaging date; (c) any applicable date by which the medical cannabis should be used; (d) a warning stating, "This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the certifying health care practitioner, and in the case of breastfeeding mothers, including the infant's pediatrician. This product might impair the ability to drive. Keep out of reach of children."; (e) the amount of individual doses contained within; and (f) a warning that the medical cannabis must be kept in the original container in which it was dispensed.

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

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

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

(ii) that the applicant:

(A) is of good moral character;

(B) possesses or has the right to use sufficient land, buildings, and other premises, which shall be specified in the application, and equipment to properly carry on the activity described in the application, or in the alternative posts a bond of not less than two million dollars;

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

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

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

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

(v) the application shall include the name, residence address and title of each of the officers and directors and the name and residence address of any person or entity that is a member of the applicant. Each such person, if an individual, or lawful representative if a legal entity, shall submit an affidavit with the application setting forth:

(A) any position of management or ownership during the preceding ten years of a twenty per centum or greater interest in any other business, located in or outside this state, manufacturing or distributing drugs;

(B) whether such person or any such business has been convicted of a felony or had a registration or license suspended or revoked in any administrative or judicial proceeding; and

(C) such other information as the board may reasonably require.

2. The applicant shall be under a continuing duty to report to the office any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

3. (a) The board shall grant a registration or amendment to a registration under this section if he or she is satisfied that:

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

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

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

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

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

(A) whether the number of registered organizations in an area will be adequate or excessive to reasonably serve the area;

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

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

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

(E) the affordability of medical cannabis products offered by the registered organization;

(vi) the applicant and its managing officers are of good moral character;

(vii) the applicant has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees; and the maintenance

of such a labor peace agreement shall be an ongoing material condition of registration; and

(viii) the applicant satisfies any other conditions as determined by the board.

(b) If the board is not satisfied that the applicant should be issued a registration, he or she shall notify the applicant in writing of those factors upon which further evidence is required. Within thirty days of the receipt of such notification, the applicant may submit additional material to the board or demand a hearing, or both.

(c) The fee for a registration under this section shall be an amount determined by the board in regulations; provided, however, if the registration is issued for a period greater than two years the fee shall be increased, pro rata, for each additional month of validity.

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

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

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

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

(iv) such other information as the board shall reasonably provide to assure compliance with this article.

(e) Upon application of a registered organization, a registration may be amended to allow the registered organization to relocate within the state or to add or delete permitted registered organization activities or facilities. The fee for such amendment shall be two hundred fifty dollars.

4. A registration issued under this section shall be valid for two years from the date of issue, except that in order to facilitate the renewals of such registrations, the board may upon the initial application for a registration, issue some registrations which may remain valid for a period of time greater than two years but not exceeding an additional eleven months.

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

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

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

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

(A) each incident or alleged incident involving the theft, loss, or possible diversion of medical cannabis manufactured or distributed by the applicant; and

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

(c) An applicant for renewal shall be under a continuing duty to report to the board any change in facts or circumstances reflected in

the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

(d) If the board is not satisfied that the registered organization applicant is entitled to a renewal of the registration, the board shall within a reasonably practicable time as determined by the executive director, serve upon the registered organization or its attorney of record in person or by registered or certified mail an order directing the registered organization to show cause why its application for renewal should not be denied. The order shall specify in detail the respects in which the applicant has not satisfied the board that the registration should be renewed.

(e) Within a reasonably practicable time as determined by the board of such order, the applicant may submit additional material to the board or demand a hearing or both; if a hearing is demanded the board shall fix a date as soon as reasonably practicable.

6. (a) The board shall renew a registration unless he or she determines and finds that:

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

(ii) the applicant is unlikely to comply with all state laws applicable to the activities in which it may engage under the registration;

(iii) it is not in the public interest to renew the registration because the number of registered organizations in an area is excessive to reasonably serve the area; or

(iv) the applicant has either violated or terminated its labor peace agreement.

(b) For purposes of this section, proof that a registered organization, during the period of its registration, has failed to maintain effective control against diversion, violates any provision of this article, or has knowingly or negligently failed to comply with applicable state laws relating to the activities in which it engages under the registration, shall constitute grounds for suspension, termination or limitation of the registered organization's registration or as determined by the board. The registered organization shall also be under a continuing duty to report to the authority any material change or fact or circumstance to the information provided in the registered organization's application.

7. The board may suspend or terminate the registration of a registered organization, on grounds and using procedures under this article relating to a license, to the extent consistent with this article. The authority shall suspend or terminate the registration in the event that a registered organization violates or terminates the applicable labor peace agreement. Conduct in compliance with this article which may violate conflicting federal law, shall not be grounds to suspend or terminate a registration.

8. A registered organization that manufactures medical cannabis may have no more than four dispensing sites wholly owned and operated by such registered organization. Such registered organization may have an additional four dispensing sites; provided, however, that the first two additional dispensing sites shall be located in underserved or unserved geographic locations, as determined by the board. The board shall ensure that such registered organizations and dispensing sites are geographically distributed across the state and that their ownership reflects the demographics of the state. The board shall register additional registered organizations to provide services to unserved and underserved

areas of the state. Additional registered organization shall be reflective of the demographics of the state.

§ 36. Reports of registered organizations. 1. The board shall, by regulation, require each registered organization to file reports by the registered organization during a particular period. The board shall determine the information to be reported and the forms, time, and manner of the reporting.

2. The board shall, by regulation, require each registered organization to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all medical cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, distributing, or dispensing by the registered organization, subject to regulations of the board.

§ 37. Evaluation; research programs; report by board. 1. The board may provide for the analysis and evaluation of the operation of this article. The board may enter into agreements with one or more persons, not-for-profit corporations or other organizations, for the performance of an evaluation of the implementation and effectiveness of this article.

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

3. The board shall report every two years, beginning two years after the effective date of this article, to the governor and the legislature on the medical use of cannabis under this article and make appropriate recommendations.

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

(a) to test chemical potency and composition levels;

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

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

(d) to conduct genomic or agricultural research.

2. As part of the application process for a cannabis research license, an applicant must submit to the board a description of the research that is intended to be conducted as well as the amount of cannabis to be grown or purchased. The board shall review an applicant's research project and determine whether it meets the requirements of subdivision one of this section. In addition, the board shall assess the application based on the following criteria:

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

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

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

3. A cannabis research licensee may only sell cannabis grown or within its operation to other cannabis research licensees. The board may revoke a cannabis research license for violations of this section.

4. A cannabis research licensee may contract with an institution of higher education, including but not limited to a hospital within the state university of New York, to perform research in conjunction with such institution. All research projects, entered into under this section must be approved by the board and meet the requirements of subdivision one of this section.

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

(a) application requirements;

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

(c) conditions for license revocation;

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

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

(f) licensee reporting requirements;

(g) conditions under which cannabis grown by licensed cannabis producers and other product types from licensed cannabis processors may be donated to cannabis research licensees; and

(h) any additional requirements deemed necessary by the board.

6. A cannabis research license issued pursuant to this section must be issued in the name of the applicant and specify the location at which the cannabis researcher intends to operate, which must be within the state of New York.

7. The application fee for a cannabis research license shall be determined by the board on an annual basis.

8. Each cannabis research licensee shall issue an annual report to the board. The board shall review such report and make a determination as to whether the research project continues to meet the research qualifications under this section.

§ 39. Registered organizations and adult-use cannabis. The board shall have the authority to grant some or all of the registered organizations registered with the department of health and currently registered and in good standing with the office, the ability to obtain adult-use cannabis licenses pursuant to article four of this chapter subject to any fees, rules or conditions prescribed by the board in regulation.

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

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

§ 41. Home cultivation of medical cannabis. 1. Notwithstanding the provisions of section thirty-three hundred eighty-two of the public health law certified patients and their designated caregiver(s) twenty-one years of age or older may:

(a) plant, cultivate, harvest, dry, process or possess no more than six mature cannabis plants at any one time; or

(b) plant, cultivate, harvest, dry, process or possess, within his or her private residence, or on the grounds of his or her private residence, no more than six mature cannabis plants at any one time.

2. Any mature cannabis plant described in subdivision one of this section, and any cannabis produced by any such cannabis plant or plants in excess of three ounces, cultivated, harvested, dried, processed or possessed pursuant to subdivision one of this section shall, unless otherwise authorized by law or regulation, be stored except for inci-

dental periods within such person's private residence or storage space or on the grounds of such person's private residence or storage space. Such person shall take reasonable steps designed to assure that such cultivated cannabis is in a secured place.

3. A county, town, city or village may enact and enforce regulations to reasonably regulate the actions and conduct set forth in subdivision one of this section; provided that:

(a) a violation of any such a regulation, as approved by such county, town, city or village enacting the regulation, may constitute no more than an infraction and may be punishable by no more than a discretionary civil penalty of two hundred dollars or less; and

(b) no county, town, city or village may enact or enforce any such regulation or regulations that may completely or essentially prohibit a person from engaging in the action or conduct authorized by subdivision one of this section.

4. A violation of subdivision one or two of this section may be subject to a civil penalty of up to one hundred twenty-five dollars.

5. The board shall develop rules and regulations governing this section within one year of the effective date of this section.

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

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

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

4. (a) Certification applications, certification forms, any certified patient information contained within a database, and copies of registry identification cards shall be deemed exempt from public disclosure under sections eighty-seven and eighty-nine of the public officers law.

(b) The name, contact information, and other information relating to practitioners registered with the board under this article shall be public information and shall be maintained on the board's website accessible to the public in searchable form. However, if a practitioner notifies the board in writing that he or she does not want his or her name and other information disclosed, that practitioner's name and other information shall thereafter not be public information or maintained on the board's website, unless the practitioner cancels the request.

5. A person currently under parole, probation or other state or local supervision, or released on bail awaiting trial may not be punished or otherwise penalized for conduct allowed under this article.

§ 43. Regulations. The board shall promulgate regulations in consultation with the cannabis advisory board to implement this article.

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

§ 45. Pricing. Registered organizations shall submit documentation to the executive director of any change in pricing per dose for any medical cannabis product within fifteen days of such change. Prior approval by the executive director shall not be required for any such change; provided however that the board is authorized to modify the price per dose for any medical cannabis product if necessary to maintain public access to appropriate medication.

ARTICLE 4
ADULT-USE CANNABIS

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§ 61. License application. 1. Any person may apply to the board for a license to cultivate, process, distribute or dispense cannabis within this state for sale. Such application shall be in writing and verified and shall contain such information as the board shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the board shall approve the application, it shall issue a license in such form as shall be determined by its rules. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to cultivate, process, distribute, deliver or dispense cannabis in the premises therein specifically licensed.

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

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

§ 62. Information to be requested in applications for licenses. 1. The board shall have the authority to prescribe the manner and form in which an application must be submitted to the board for licensure under this article.

2. The board is authorized to adopt regulations, including by emergency rule, establishing information which must be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity, including racial and ethnic diversity; ownership and investment information, including the corporate structure; evidence of good moral character, including the submission of fingerprints by the applicant to the division of criminal justice services; information about the premises to be licensed; financial statements; and any other information prescribed by regulation.

3. All license applications shall be signed by the applicant (if an individual), by a managing member (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 or affirm it as true under the penalties of perjury.

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

5. If there are any changes, after the filing of the application or the granting of a license or permit, in any of the facts required to be set forth in such application, a supplemental statement giving notice of such change, cost and source of money involved in the change, duly verified or affirmed, shall be filed with the board within ten days after such change. Failure to do so shall, if willful and deliberate, be cause for denial or revocation of the license.

6. In giving any notice, or taking any action in reference to a registered organization or licensee of a licensed premises, the board may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon registered organizations, licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke, cancel or suspend any license, and in the board's final determination to approve or deny the license.

§ 63. Fees. 1. The board shall have the authority to charge applicants for licensure under this article a non-refundable application fee. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the board to achieve the policy and purpose of this chapter.

1-a. The board shall also have the authority to assess a registered organization with a one-time special licensing fee for a registered organization adult-use cultivator, processor, distributor, retail dispensary license. Such fee shall be assessed at an amount to adequately fund social and economic equity and incubator assistance pursuant to this article and paragraph (c) of subdivision three of section ninety-nine-ii of the state finance law. Provided, however, that the board shall not allow registered organizations to dispense adult-use cannabis from more than three of their medical cannabis dispensing locations. The timing and manner in which registered organizations may be granted such authority shall be determined by the board in regulation.

2. The board shall have the authority to charge licensees a biennial license fee. Such fee shall be based on the amount of cannabis to be cultivated, processed, distributed and/or dispensed by the licensee or the gross annual receipts of the licensee for the previous license period, and any other factors deemed reasonable and appropriate by the board.

3. The board shall waive or reduce fees for social and economic equity applicants.

§ 64. Selection criteria. 1. The board shall develop regulations for determining whether or not an applicant should be granted the privilege of an initial adult-use cannabis license, based on, but not limited to, the following criteria:

(a) the applicant is a social and economic equity applicant;

(b) the applicant will be able to maintain effective control against the illegal diversion of cannabis;

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

(d) the applicant and its officers are ready, willing, and able to properly carry on the activities for which a license is sought including with assistance from the social and economic equity and incubator program, if applicable;

(e) the applicant possesses or has the right to use sufficient land, buildings, and equipment to properly carry on the activity described in the application or has a plan to do so if qualifying as a social and economic equity applicant;

(f) the applicant qualifies as a social and economic equity applicant or sets out a plan for benefiting communities and people disproportionally impacted by enforcement of cannabis laws;

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

(i) that it is a privilege, and not a right, to cultivate, process, distribute, and sell adult-use cannabis;

(ii) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;

(iii) evidence that all necessary licenses and permits have been or will be obtained from the state and all other relevant governing bodies;

(iv) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;

(v) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;

(vi) the ability to mitigate adverse environmental impacts, including but not limited to water usage, energy usage and carbon emissions;

(vii) the effect on the production and availability of cannabis and cannabis products; and

(viii) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community;

(h) the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter;

(i) the applicant has entered into a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees, and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure. In evaluating applications from entities with twenty-five or more employees, the office shall give priority to applicants that are a party to a collective bargaining agreement with a bona-fide labor organization in New York or in another state, and uses union labor to construct its licensed facility;

(j) the applicant will contribute to communities and people disproportionately harmed by enforcement of cannabis laws and report these contributions to the board;

(k) if the application is for an adult-use cultivator or processor license, the environmental and energy impact of the facility to be licensed;

(l) the applicant satisfies any other conditions as determined by the board; and

(m) if the applicant is a registered organization, the organization's maintenance of effort in manufacturing and/or dispensing and/or research of medical cannabis for certified patients and caregivers.

2. If the board 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 recommended by the board for denial.

3. The state cannabis advisory board shall have the authority to recommend to the board the number of licenses issued pursuant to this article to ensure a competitive market where no licensee is dominant in the statewide marketplace or in any individual category of licensing, to actively promote and potentially license social and economic equity applicants, and carry out the goals of this chapter.

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

2. No licensee shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis or cannabis product to any person, actually or apparently, under the age of twenty-one years unless the person under twenty-one is also a certified patient and the licensee is appropriately licensed under article three of this chapter.

3. The board, on the recommendation of the office shall have the authority to limit, by canopy, plant count, square footage or other means, the amount of cannabis allowed to be grown, processed, distributed or sold by a licensee.

4. All licenses under this article shall expire two years after the date of issue.

§ 66. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefore by the licensee and the payment of the fee for such license as prescribed by this article. In the case of applications for renewals, the board may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license, but in any event the submission of photographs of the licensed premises shall be dispensed with, provided the applicant for such renewal shall file a statement with the board to the effect that there has been no alteration of such premises since the original license was issued. The board may make such rules as it deems necessary, not inconsistent with this chapter, regarding applications for renewals of licenses and permits and the time for making the same.

2. Each applicant must submit to the board documentation of the racial, ethnic, and gender diversity of the applicant's employees and owners prior to a license being renewed. In addition, the board shall consult with the state cannabis advisory board and the chief equity officer to create a social responsibility framework agreement and make the adherence to such agreement a conditional requirement of license renewal. The board shall promote applicants that foster racial, ethnic, and gender diversity in their workplace.

3. The board shall provide an application for renewal of a license issued under this article not less than ninety days prior to the expiration of the current license.

4. The board may only issue a renewal license upon receipt of the prescribed renewal application and renewal fee from a licensee if, in addition to the criteria in this section, the licensee's license is not under suspension and has not been revoked.

5. Each applicant must maintain a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure.

6. Each applicant must provide evidence of the execution of their plan for benefitting communities and people disproportionally impacted by cannabis law enforcement required for initial licensing pursuant to section sixty-four of this article.

§ 67. Amendments; changes in ownership and organizational structure. 1. Licenses issued pursuant to this article shall specify:

(a) the name and address of the licensee;

(b) the activities permitted by the license;

(c) the land, buildings and facilities that may be used for the licensed activities of the licensee;

(d) a unique license number issued by the board to the licensee; and

(e) such other information as the board shall deem necessary to assure compliance with this chapter.

2. Upon application of a licensee to the board, a license may be amended to allow the licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the licensee. The board shall establish a fee for such amendments.

3. A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the board. The board may promulgate regulations allowing for certain types of changes in ownership without the need for prior written approval.

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

(a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; or

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

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

§ 68. Adult-use cultivator license. 1. An adult-use cultivator's license shall authorize the acquisition, possession, distribution, 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 without the need for an adult-use processor license.

2. For purposes of this section, cultivation shall include, but not be limited to, the agricultural production practices of 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.

4. A person holding an adult-use cultivator's license may not also hold a retail dispensary license pursuant to this article and no adult-use cannabis cultivator shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary or in any registered organization registered pursuant to article three of this chapter.

5. A person holding an adult-use cultivator's license may not hold a license to distribute cannabis 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.

§ 68-a. Registered organization adult-use cultivator processor distributor retail dispensary license. A registered organization cultivator processor distributor retail dispensary license shall have the same authorization and conditions as adult-use cultivator, adult-use

processor, adult-use distributor and adult-use retail dispensary licenses issued pursuant to this article provided, however that the sales of adult-use cannabis and cannabis products cultivated, processed or distributed by such organizations shall be limited to the organization's adult-use retail dispensaries and the location of such adult-use dispensaries shall be limited to the organization's medical dispensaries' premises and facilities authorized pursuant to article three of this chapter. Provided further that such registered organization shall maintain its medical cannabis license and continue offering medical cannabis to a degree established by regulation of the board.

§ 68-b. Registered organization adult-use cultivator license. A registered organization cultivator license shall have the same authorization and conditions as an adult-use cultivator license, provided, however, that sales of adult-use cannabis and cannabis products by such organizations shall be limited to licensed adult-use processors and such license does not qualify such organization for any other adult-use license.

§ 69. Adult-use processor license. 1. A processor's license shall authorize the acquisition, possession, processing and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed distributors.

2. For purposes of this section, processing shall include, but not be limited to, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing cannabis products. Processing shall not include the cultivation of cannabis.

3. No processor shall be engaged in any other business on the premises to be licensed; except that nothing contained in this chapter shall prevent a cannabis cultivator and cannabis processor, from operating on the same premises and from a person holding both licenses.

4. No cannabis processor licensee may hold more than three cannabis processor licenses.

5. A person holding an adult-use processor's license may not hold a license to distribute cannabis under this article.

6. No adult-use cannabis processor shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary or in any registered organization registered pursuant to article three of this chapter.

§ 70. Small business 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, on-site consumption sites, and/or retail dispensaries; but not directly to cannabis consumers.

2. To be licensed as a small business adult-use cooperative, the cooperative must:

(i) be comprised of residents of the state of New York as a limited liability company or limited liability partnership under the laws of the state, or an appropriate business structure as determined and authorized by the board;

(ii) subordinate capital, both as regards control over the cooperative undertaking, and as regards the ownership of the pecuniary benefits arising therefrom;

(iii) be democratically controlled by the members themselves on the basis of one vote per member;

(iv) vest in and allocate with priority to and among the members of all increases arising from their cooperative endeavor in proportion to the members' active participation in the cooperative endeavor; and

(v) the cooperative must operate according to the seven cooperative principles published by the International Cooperative Alliance in nineteen hundred ninety-five.

3. A cooperative member shall be a natural person and shall not be a member of more than one small business adult-use cooperative licensed pursuant to this section.

4. No natural person or member of a small business 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 small business 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 chapter.

6. The board shall promulgate regulations governing cooperative licenses, including, but not limited to, the establishment of canopy limits on the size and scope of cooperative licensees, and other measures designed to incentivize the use and licensure of cooperatives.

§ 71. Adult-use distributor license. 1. A distributor's license shall authorize the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use cultivator, processor, small business adult-use cooperative or microbusiness authorized pursuant to this chapter 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 or in any adult-use cultivator or processor 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 subdivision one of section thirty-nine of this chapter, from being granted licensure by the board to distribute adult-use cannabis products cultivated and processed by the registered organization to licensed adult-use retail dispensaries owned and operated by such registered organization.

3. Nothing in subdivision two of this section shall prevent a distributor from charging an appropriate fee, authorized by the board, for the distribution of cannabis, including based on the volume of cannabis distributed.

§ 72. Adult-use retail dispensary license. 1. A retail dispensary license shall authorize the acquisition, possession, sale and delivery 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 adult-use retail dispensary licenses issued pursuant to this chapter.

3. No person holding a retail dispensary license may also hold an adult-use cultivation, processor, microbusiness, cooperative or distributor license pursuant to this article or be registered as a registered organization pursuant to article three of this chapter, except for such organizations licensed pursuant to sections sixty-eight-a and sixty-eight-b of this article.

4. No retail license shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be able to demonstrate possession of the premises within thirty days of initial approval of the license through 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. With the exception of microbusiness licensees, no premises shall be licensed to sell cannabis products, unless said premises shall be located in a store, the principal entrance to which shall be from the street level and located on a public thoroughfare in premises which may be occupied, operated or conducted for business, trade or industry.

6. No cannabis retail license shall be granted for any premises within five hundred feet of a school grounds as such term is defined in the education law.

§ 73. Microbusiness license. 1. A microbusiness license shall authorize the limited cultivation, processing, distribution and dispensing of their own adult-use cannabis and cannabis products.

2. A microbusiness licensee may not hold interest in any other license and may only distribute its own cannabis and cannabis products to dispensaries.

3. The size and scope of a microbusiness shall be determined by regulation by the board in consultation with the executive director and the state cannabis advisory board. Such licenses shall promote social and economic equity applicants as provided for in this chapter.

§ 74. Delivery license. A delivery license shall authorize the delivery of cannabis and cannabis products by licensees independent of another adult-use cannabis license, provided that each delivery licensee may have a total of no more than twenty-five individuals, or the equivalent thereof, providing full-time paid delivery services, per week under one license. For the purposes of this section the state cannabis advisory board shall provide recommendations to the board for the application process, license criteria, and scope of licensed activities for this class of license. No person may have a direct or indirect financial or controlling interest in more than one delivery license. Such licenses shall promote social and economic equity applicants as provided for in this chapter.

§ 75. Nursery license. 1. A nursery license shall authorize the production, sale and distribution of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. For the purposes of this section, the office shall provide recommendations to the board for the application process, license criteria and scope of licensed activities for this class of license. Such licenses shall promote social and economic equity applicants as provided for in this chapter.

2. A person or entity holding a cultivators license may apply for, and obtain, one nursery license to sell directly to other cultivators, cooperatives, or microbusinesses.

§ 76. Notification to municipalities of adult-use retail dispensary or on-site consumption license. 1. Not less than thirty days nor more than two hundred seventy days before filing an application for licensure as an adult-use retail dispensary or registered organization adult-use cultivator processor distributor retail dispensary or an on-site consumption licensee, an applicant shall notify the municipality in which the premises is located of such applicant's intent to file such an application.

2. Such notification shall be made to the clerk of the village, town or city, as the case may be, wherein the premises is located. For purposes of this section:

(a) notification need only be given to the clerk of a village when the premises is located within the boundaries of the village; and

(b) in the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the premises is located shall be considered the appropriate public body to which notification shall be given.

3. Such notification shall be made in such form as shall be prescribed by the rules of the board.

4. When a city, town, or village, and in New York city a community board, expresses an opinion for or against the granting of such registration, license or permit application, any such opinion shall be deemed part of the record upon which the office makes its recommendation to the board to grant or deny the application and the board shall respond in writing to such city, town, village or community board with an explanation of how such opinion was considered in the granting or denial of an application.

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

6. The board shall require such notification to be on a standardized form that can be obtained on the internet or from the board and such notification to include:

(a) the trade name or "doing business as" name, if any, of the establishment;

(b) the full name of the applicant;

(c) the street address of the establishment, including the floor location or room number, if applicable;

(d) the mailing address of the establishment, if different than the street address;

(e) the name, address and telephone number of the attorney or representative of the applicant, if any;

(f) a statement indicating whether the application is for:

(i) a new establishment;

(ii) a transfer of an existing licensed business;

(iii) a renewal of an existing license; or

(iv) an alteration of an existing licensed premises;

(g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;

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

(i) the type of license.

§ 77. Adult-use on-site consumption license; provisions governing on-site consumption licenses. 1. No applicant shall be granted an adult-use on-site consumption license for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, in writing, for a term not less than the license period except, however, that such license may thereafter be renewed without the requirement of a lease as provided in this section. This subdivision shall not apply to premises leased from government agencies; provided, however, that the appropriate administrator of such government agency provides some form of written documentation regarding the terms

of occupancy under which the applicant is leasing said premises from the government agency for presentation to the office at the time of the license application. Such documentation shall include the terms of occupancy between the applicant and the government agency, including, but not limited to, any short-term leasing agreements or written occupancy agreements.

2. No person may have a direct or indirect financial or controlling interest in more than three adult-use on-site consumption licenses issued pursuant to this chapter.

3. No person holding an adult-use on-site consumption license may also hold an adult-use retail dispensary, cultivation, processor, microbusiness, cooperative or distributor license pursuant to this article or be registered as a registered organization pursuant to article three of this chapter.

4. No applicant shall be granted an adult-use on-site consumption license for any premises within five hundred feet of school grounds as such term is defined in the education law.

5. The board may consider any or all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of an adult-use on-site consumption license at a particular location:

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

(b) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;

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

(d) whether there is a demonstrated need for spaces to consume cannabis;

(e) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;

(f) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises; and

(g) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.

6. If the board shall disapprove an application for an on-site consumption license, it shall state and file in its offices the reasons therefor and shall notify the applicant thereof. Such applicant may thereupon apply to the board for a review of such action in a manner to be prescribed by the rules of the board.

7. No adult-use cannabis on-site consumption licensee shall keep upon the licensed premises any adult-use cannabis products except those purchased from a licensed distributor, adult-use cooperative, or microbusiness authorized to sell adult-use cannabis, and only in containers approved by the board. Such containers shall have affixed thereto such labels as may be required by the rules of the board. No adult-use on-site consumption licensee shall reuse, refill, tamper with, adulterate, dilute or fortify the contents of any container of cannabis products as received from the manufacturer or distributor.

8. No adult-use on-site consumption licensee shall sell, deliver or give away, or cause or permit or procure to be sold, delivered or given away any cannabis for consumption on the premises where sold in a container or package containing a quantity or number of servings more than authorized by the board.

9. No adult-use on-site consumption licensee shall suffer, permit or promote activities or events on its premises wherein any person shall use such premises for activities including, but not limited to, gambling, exposing or simulating, contests, or fireworks that are prohibited by subdivision six, six-a, six-b six-c or seven of section one hundred six of the alcoholic beverage control law or any other similar activities the board deems to be prohibited.

10. No premises licensed to sell adult-use cannabis for on-site consumption under this chapter shall be permitted to have any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless ingress and egress is restricted by an employee, agent of the licensee, or other method approved by the board of controlling access to the facility.

11. Each adult-use on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of cannabis products, in an applicable metric measurement, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis products made by such licensee. The board is hereby authorized to promulgate rules and regulations permitting an on-site licensee operating two or more premises separately licensed to sell cannabis products for on-site consumption to inaugurate or retain in this state methods or practices of centralized accounting, bookkeeping, control records, reporting, billing, invoicing or payment respecting purchases, sales or deliveries of cannabis products, or methods and practices of centralized receipt or storage of cannabis products within this state without segregation or earmarking for any such separately licensed premises, wherever such methods and practices assure the availability, at such licensee's central or main office in this state, of data reasonably needed for the enforcement of this chapter. Such records shall be available for inspection by any authorized representative of the board.

12. All licensed adult-use on-site consumption premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the board, during the hours when the said premises are open for the transaction of business.

13. An adult-use on-site consumption licensee shall not provide cannabis products to any person under the age of twenty-one. No person under the age of twenty-one shall be permitted on the premises of a cannabis on-site consumption facility.

14. The provisions of article thirteen-E of the public health law restricting the smoking or vaping of cannabis shall not apply to adult-use on-site consumption premises.

§ 78. Record keeping and tracking. 1. The board shall, by regulation, require each licensee pursuant to this article to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, testing or distributing by the licensee, subject to regulations of the board.

2. Every licensee shall keep and maintain upon the licensed premises. Adequate books and records of all transactions involving the licensee

and sale of its products, which shall include, but is not limited to, all information required by any rules promulgated by the board.

3. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number. Licensed producers shall deliver to the licensed distributor a true duplicate invoice stating the name and address of the purchaser, the quantity purchased, description and the price of the product, and a true, accurate and complete statement of the terms and conditions on which such sale is made.

4. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the board.

5. Each adult-use and registered organization adult-use cannabis retail dispensary, microbusiness, and on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of cannabis, in weight, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis made by such licensee.

§ 79. Inspections and ongoing requirements. All licensed or permitted premises, regardless of the type of premises, shall be subject to inspection by the office, by the duly authorized representatives of the board, by any peace officer acting pursuant to his or her special duties, or by a police officer, during the hours when the said premises are open for the transaction of business. The board shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection. A person who holds a license or permit must make himself or herself, or an agent thereof, available and present for any inspection required by the board. Such inspection may include, but is not limited to, ensuring compliance by the licensee or permittee with all other applicable state and local building codes, fire, health, safety, and other applicable regulations.

§ 80. Adult-use cultivators, processors or distributors not to be interested in retail dispensaries. 1. It shall be unlawful for a cultivator, processor, cooperative or distributor licensed under this article to:

(a) be interested directly or indirectly in any premises where any cannabis product is sold at retail; or in any business devoted wholly or partially to the sale of any cannabis product at retail by stock ownership, interlocking directors, mortgage or lien or any personal or real property, or by any other means;

(b) make, or cause to be made, any loan to any person engaged in the manufacture or sale of any cannabis product at wholesale or retail;

(c) make any gift or render any service of any kind whatsoever, directly or indirectly, to any person licensed under this chapter which in the judgment of the board may influence such licensee to purchase the product of such cultivator or processor or distributor; or

(d) enter into any contract with any retail licensee whereby such licensee agrees to confine his or her sales to cannabis products manufactured or sold by one or more such cultivator or processors or distributors. Any such contract shall be void and subject the licenses of all parties concerned to revocation for cause.

2. The provisions of this section shall not prohibit a registered organization authorized pursuant to section thirty-nine, sixty-eight-a or sixty-eight-b of this chapter, from cultivating, processing, or selling adult-use cannabis under this article, at facilities wholly owned and operated by such registered organization, subject to any conditions, limitations or restrictions established by this chapter.

3. The board shall develop rules and regulations, in regard to this section and, in consultation with the state cannabis advisory board.

§ 81. Packaging and labeling of adult-use cannabis products. 1. The board is hereby authorized to promulgate rules and regulations governing the advertising, branding, marketing, packaging and labeling of cannabis products, sold or possessed for sale in New York state, including rules pertaining to the accuracy of information and rules restricting marketing and advertising to youth.

2. Such regulations shall include, but not be limited to, requiring that:

(a) packaging meets requirements similar to the federal "poison prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;

(b) all cannabis-infused products shall have a separate packaging for each serving;

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

(d) packages and labels shall not be made to be attractive to minors.

3. Such regulations shall include requiring labels warning consumers of any potential impact on human health resulting from the consumption of cannabis products that shall be affixed to those products when sold, if such labels are deemed warranted by the board.

4. Such rules and regulations shall establish methods and procedures for determining serving sizes for cannabis-infused products and active cannabis concentration per serving size. Such regulations shall also require a nutritional fact panel that incorporates data regarding serving sizes and potency thereof.

5. The packaging, sale, marketing, branding, advertising, labeling 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 in accordance with the provisions of this chapter.

§ 82. 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.

2. Adult-use cannabis processors shall make laboratory test reports available to licensed distributors and retail dispensaries for all cannabis products manufactured by the processor.

3. Licensed retail dispensaries shall maintain accurate documentation of laboratory test reports for each cannabis product offered for sale to cannabis consumers. Such documentation shall be made publicly available by the licensed retail dispensary.

4. Onsite laboratory testing by licensees is permissible; however, such testing shall not be certified by the board and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

5. An owner of a cannabis laboratory testing permit shall not hold a license in any other category within this article and shall not own or have ownership interest in a registered organization registered pursuant to article three of this chapter.

6. The board 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.

§ 83. Provisions governing the cultivation and processing of adult-use cannabis. 1. 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 originally sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the board. Such containers shall have affixed thereto such labels as may be required by the rules of the board.

2. 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 board. The board may make such rules as it deems necessary to carry out the purpose and intent of this subdivision.

3. Cultivators of adult-use cannabis shall comply with plant cultivation regulations, standards, and guidelines consistent with the provisions applicable to hemp, cannabinoid hemp, and hemp extract and issued by the board, in consultation with the department of environmental conservation and the department of agriculture and markets. Such regulations, standards, and guidelines shall be guided by sustainable farming principles and practices such as organic, regenerative, and integrated pest management models, and shall restrict whenever possible, the use of pesticides to those that are registered by the department of environmental conservation or that specifically meet the United States environmental protection agency registration exemption criteria for minimum risk, used in compliance with rules, regulations, standards and guidelines issued by the department of environmental conservation for pesticides.

4. No cultivator or processor of adult-use cannabis, including an adult-use cannabis cooperative or microbusiness, may offer any incentive, payment or other benefit to a licensed cannabis distributor or retail dispensary in return for carrying the cultivator, processor, cooperative or microbusiness products, or preferential shelf placement.

5. All cannabis products shall be processed in accordance with good manufacturing processes, pursuant to Part 111 of Title 21 of the Code of Federal Regulations, as may be modified by the board in regulation.

6. No processor of adult-use cannabis shall produce any product which, in the discretion of the board, is designed to appeal to anyone under the age of twenty-one years.

7. The use or integration of alcohol or nicotine in cannabis products is strictly prohibited.

§ 84. Provisions governing the distribution of adult-use cannabis. 1. No distributor shall sell, or agree to sell or deliver any cannabis products, as the case may be, in any container, except in a sealed package. Such containers shall have affixed thereto such labels as may be required by the rules of the board.

2. No distributor shall deliver any cannabis products, except in vehicles owned and operated by such distributor, or hired and operated by such distributor from a trucking or transportation company registered with the board, and shall only make deliveries at the licensed premises of the purchaser.

3. Each distributor shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such distributor, which shall show the amount of cannabis products purchased by such distributor together with the names, license numbers and places of business of the persons from whom the same was purchased and the amount involved in such purchases, as well as the amount of cannabis products sold by such distributor together with the names, addresses, and license numbers of such purchasers. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number. Such distributor shall deliver to the purchaser a true duplicate invoice stating the name and address of the purchaser, the quantity of cannabis products, description by brands and the price of such cannabis products, and a true, accurate and complete statement of the terms and conditions on which such sale is made. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the board.

4. No distributor shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, unless authorized by the board.

5. No distributor shall provide any discount, rebate or customer loyalty program to any licensed retailer, except as otherwise allowed by the board.

6. The board is authorized to promulgate regulations establishing a maximum margin for which a distributor may mark up a cannabis product for sale to a retail dispensary. Any adult-use cannabis product sold by a distributor for more than the maximum markup allowed in regulation, shall be unlawful.

7. Each distributor shall keep and maintain upon the licensed premises, adequate books and records to demonstrate the distributor's actual cost of doing business, using accounting standards and methods regularly employed in the determination of costs for the purpose of federal income tax reporting, for the total operation of the licensee. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office for use in determining the maximum markup allowed in regulation pursuant to subdivision six of this section.

§ 85. Provisions governing adult-use cannabis retail dispensaries. 1. No cannabis retail licensee shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis to any person, actually or apparently, under the age of twenty-one years or, visibly intoxicated or impaired.

2. Valid proof of age is required for each transaction. No licensee, or agent or employee of such licensee shall accept as written evidence of age by any such person for the purchase of any cannabis or cannabis product, any documentation other than: (a) a valid driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (b) a valid passport issued by the United States government or any other country, or (c) an identification card issued by the armed forces of the United States. Upon the presentation of such driver's license or non-driver identification card issued by a governmental entity, such licensee or agent or employee thereof may perform a transaction scan as a

precondition to the sale of any cannabis or cannabis product. Nothing in this section shall prohibit a licensee or agent or employee from performing such a transaction scan on any of the other documents listed in this subdivision if such documents include a bar code or magnetic strip that may be scanned by a device capable of deciphering any electronically readable format. In instances where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card presented by the card holder, or if the transaction scan indicates that the information is false or fraudulent, the attempted purchase of the cannabis or cannabis product shall be denied.

3. No cannabis retail licensee shall sell alcoholic beverages, nor have or possess a license or permit to sell alcoholic beverages, on the same premises where cannabis products are sold.

4. No sign of any kind printed, painted or electric, advertising any brand shall be permitted on the exterior or interior of such premises, except by permission of the board.

5. No cannabis retail licensee shall sell or deliver any cannabis products to any person with knowledge of, or with reasonable cause to believe, that the person to whom such cannabis products are being sold, has acquired the same for the purpose of selling or giving them away in violation of the provisions of this chapter or in violation of the rules and regulations of the board.

6. All premises licensed under this section shall be subject to inspection by any peace officer described in subdivision four of section 2.10 of the criminal procedure law acting pursuant to his or her special duties, or police officer or any duly authorized representative of the board, during the hours when the said premises are open for the transaction of business.

7. No cannabis retail licensee shall be interested, directly or indirectly, in any cultivator, processor, distributor or microbusiness operator licensed pursuant to this article, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means. Any lien, mortgage or other interest or estate, however, now held by such retailer on or in the personal or real property of such manufacturer or distributor, which mortgage, lien, interest or estate was acquired on or before December thirty-first, two thousand nineteen, shall not be included within the provisions of this subdivision; provided, however, the burden of establishing the time of the accrual of the interest comprehended by this subdivision, shall be upon the person who claims to be entitled to the protection and exemption afforded hereby.

8. No cannabis retail licensee shall make or cause to be made any loan to any person engaged in the cultivation, processing or distribution of cannabis pursuant to this article.

9. Each cannabis retail licensee shall designate the price of each item of cannabis by attaching to or otherwise displaying immediately adjacent to each such item displayed in the interior of the licensed premises where sales are made a price tag, sign or placard setting forth the price at which each such item is offered for sale therein.

10. No person licensed to sell cannabis products at retail, shall allow or permit any gambling, or offer any gambling on the licensed premises, or allow or permit illicit drug activity on the licensed premises.

11. If an employee of an adult-use cannabis retail licensee suspects that a cannabis consumer may be abusing cannabis, such an employee shall

encourage such cannabis consumer to seek help from a substance use disorder program or harm reduction services. The board shall develop standard operating procedures and written materials to be distributed to cannabis retail licensees in consultation with the office of addiction services and supports, for adult-use cannabis retail licensee employees to utilize when interacting and/or consulting consumers for purposes of this subdivision.

12. The board is authorized, to promulgate regulations governing licensed adult-use dispensing facilities, including but not limited to, the hours of operation, size and location of the licensed facility, potency and types of products offered and establishing a minimum and maximum margin for retail dispensary markups of cannabis product or products before selling to a cannabis consumer. Any adult-use cannabis product sold by a retail dispensary for less than the minimum markup allowed in regulation, shall be unlawful.

§ 86. Adult-use cannabis advertising. 1. The board shall promulgate rules and regulations governing the advertising and marketing of licensed cannabis and any cannabis products or services.

2. The board shall promulgate explicit rules prohibiting advertising that:

(a) is false, deceptive, or misleading;

(b) promotes overconsumption;

(c) depicts consumption by children or other minors;

(d) is designed in any way to appeal to children or other minors;

(e) is within five hundred feet of the perimeter of a school grounds, playground, child day care providers, public park, or library;

(f) is in public transit vehicles and stations;

(g) is in the form of an unsolicited internet pop-up;

(h) is on publicly owned or operated property; or

(i) makes medical claims or promotes adult-use cannabis for a medical or wellness purpose.

3. The board shall promulgate explicit rules prohibiting all marketing strategies and implementation including, but not limited to, branding, packaging, labeling, location of cannabis retailers, and advertisements that are designed to:

(a) appeal to persons less then twenty-one years of age; or

(b) disseminate false or misleading information to customers.

4. The board shall promulgate explicit rules requiring that:

(a) all advertisements and marketing accurately and legibly identify the licensee or other business responsible for its content; and

(b) any broadcast, cable, radio, print and digital communications advertisements only be placed where the audience is reasonably expected to be twenty-one years of age or older, as determined by reliable, up-to-date audience composition data.

§ 87. Social and economic equity, minority and women-owned businesses, disadvantaged farmers and service-disabled veterans; incubator program. 1. The board, in consultation with the state cannabis advisory board and the chief equity officer, and after receiving public input shall create and implement a social and economic equity plan and actively promote applicants from communities disproportionately impacted by cannabis prohibition, and promote racial, ethnic, and gender diversity when issuing licenses for adult-use cannabis related activities, including mentoring potential applicants, by prioritizing consideration of applications by applicants who are from communities disproportionately impacted by the enforcement of cannabis prohibition or who qualify as a minority or women-owned business, disadvantaged farmers, or service

disabled veterans. Such qualifications shall be determined by the board, in consultation with the state cannabis advisory board and the chief equity officer, in regulation.

2. The board's social and economic equity plan shall also promote diversity in commerce, ownership and employment, and opportunities for social and economic equity in the adult-use cannabis industry. A goal shall be established to award fifty percent of adult-use cannabis licenses to social and economic equity applicants and ensure inclusion of:

(a) individuals from communities disproportionately impacted by the enforcement of cannabis prohibition;

(b) minority-owned businesses;

(c) women-owned businesses;

(d) minority and women-owned businesses, as defined in paragraph (d) of subdivision five of this section;

(e) disadvantaged farmers, as defined in subdivision five of this section; and

(f) service-disabled veterans.

3. The social and economic equity plan shall require the consideration of additional criteria in its licensing determinations. Under the social and economic equity plan, extra priority shall be given to applications that demonstrate that an applicant:

(a) is a member of a community disproportionately impacted by the enforcement of cannabis prohibition;

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

(c) was convicted of a marihuana-related offense prior to the effective date of this chapter, or had a parent, guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of this chapter, was convicted of a marihuana-related offense.

4. The board in consultation with the cannabis advisory board and the chief equity officer, shall also create an incubator program to encourage social and economic equity applicants to apply and, if granted an adult-use cannabis license, permit or registration, the program shall provide direct support in the form of counseling services, education, small business coaching and financial planning, and compliance assistance.

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

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

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

(ii) an enterprise in which such minority ownership is real, substantial and continuing;

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

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

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

(i) black persons having origins in any of the black African racial groups;

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(iii) Native American or Alaskan native persons having origins in any of the original peoples of North America; or

(iv) Asian and Pacific Islander persons having origins in any of the far east countries, south east Asia, the Indian subcontinent or the Pacific islands.

(c) "Women-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

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

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

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

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

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

(e) "Disadvantaged farmer" shall mean a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that has reported at least two-thirds of its federal gross income as income from farming, in at least one of the past five preceding tax years, and who:

(i) farms in a county that has greater than ten percent rate of poverty according to the latest U.S. Census Bureau's American Communities Survey;

(ii) has been disproportionately impacted by low commodity prices or faces the loss of farmland through development or suburban sprawl; and

(iii) meets any other qualifications as defined in regulation by the board.

(f) "Service-disabled veterans" shall mean persons qualified under article seventeen-B of the executive law.

(g) "Communities disproportionately impacted" shall mean, but not be limited to, a history of arrests, convictions, and other law enforcement practices in a certain geographic area, such as, but not limited to, precincts, zip codes, neighborhoods, and political subdivisions, reflecting a disparate enforcement of cannabis prohibition during a certain time period, when compared to the rest of the state. The board shall, in consultation with the state cannabis advisory board and the chief equity officer, issue guidelines to determine how to assess which communities have been disproportionately impacted and how to assess if someone is a member of a community disproportionately impacted.

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

7. Licenses issued under the social and economic equity plan shall not be transferred or sold within the first three years of issue, except to a qualified social and economic equity applicant and with the prior written approval of the board. In the event a social and economic equity applicant seeks to transfer or sell their license at any point after

issue and the transferee is to a person or entity that does not qualify as a social and economic equity applicant, the transfer agreement shall require the new license holder to pay to the board any outstanding amount owed by the transferor to the board as repayment of any loan issued by the board as well as any other fee or assessment as determined by the board.

§ 88. Data collection and reporting. The board shall collect demographic data on owners and employees in the adult-use cannabis industry and shall annually publish such data in its annual report.

§ 89. Regulations. The board shall promulgate regulations in consultation with the state cannabis advisory board 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 a percent delta-9 tetrahydrocannabinol.

3. "Used for human consumption" means intended by the manufacturer or distributor to be: (a) used for human consumption for its cannabinoid content; or (b) used in, on or by the human body for its cannabinoid content.

4. "Hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis. It shall not include "medical cannabis" as defined in section three of this chapter.

5. "Hemp extract" means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers derived from hemp, used or intended for human consumption, for its cannabinoid content, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the board in regulation. For the purpose of this article, hemp extract excludes (a) any food, food ingredient or food additive that is generally recognized as safe pursuant to federal law; or (b) any hemp extract that is not used for human consumption. Such excluded substances shall not be regulated pursuant to the provisions of this article but are subject to other provisions of applicable state law, rules and regulations.

6. "License" means a license issued pursuant to this article.

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

8. "Processing" means extracting, preparing, treating, modifying, compounding, manufacturing or otherwise manipulating cannabinoid hemp to concentrate or extract its cannabinoids, or creating product, whether in intermediate or final form, used for human consumption. For purposes of this article, processing does not include: (a) growing, cultivation, cloning, harvesting, drying, curing, grinding or trimming when authorized pursuant to article twenty-nine of the agriculture and markets law; or

(b) mere transportation, such as by common carrier or another entity or individual.

§ 91. Rulemaking authority. The board may make regulations pursuant to this article for the processing, distribution, marketing, transportation and sale of cannabinoid hemp and hemp extracts used for human consumption, which may include, but not be limited to:

1. Specifying forms, establishing application, reasonable administration and renewal fees, or license duration;

2. Establishing the qualifications and criteria for licensing, as authorized by law;

3. The books and records to be created and maintained by licensees and lawful procedures for their inspection;

4. Any reporting requirements;

5. Methods and standards of processing, labeling, packaging and marketing of cannabinoid hemp, hemp extract and products derived therefrom;

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 board.

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 board 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 board, 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 board.

2. The board 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 board, providing all the relevant requested information, verified by the applicant or an authorized representative of the applicant.

2. A separate license shall be required for each facility at which 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 board may specify the manner and form in which an application shall be submitted to the board for licensure under this article.

2. The board may adopt regulations establishing 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 specified in regulation.

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 board 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 board 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 board 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 board.

§ 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 board is not satisfied that the applicant should be issued a license, the board 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 board 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 board 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 board 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 board to the licensee; and

5. Such other information as the board shall deem necessary to assure compliance with this article.

§ 100. Transferability; amendment to license; change in ownership or control. 1. Licenses issued under this article are not transferable, absent written consent of the board.

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 board. 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, established by rules and regulations, the board 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 board 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 thereof or of the licensed activity has willfully failed to comply with any of the provisions of this article or regulations under it and other laws of this state applicable to the licensed activity.

§ 102. Record keeping and tracking. Every licensee shall keep, in such form as the board may direct, such relevant records as may be required pursuant to regulations under this article.

§ 103. Packaging and labeling of cannabinoid hemp and hemp extract. 1. Cannabinoid hemp processors shall be required to provide appropriate

label warning to consumers, and restricted from making unapproved label claims, as determined by the board, concerning the potential impact on or benefit to human health resulting from the use of cannabinoid hemp, hemp extract and products derived therefrom for human consumption, which labels shall be affixed to those products when sold, pursuant to rules and regulations that the board may adopt.

2. The board may, by rules and regulations, require processors to establish a code, including, but not limited to QR code, for labels and establish methods and procedures for determining, among other things, serving sizes or dosages for cannabinoid hemp, hemp extract and products derived therefrom, active cannabinoid concentration per serving size, number of servings per container, and the growing region, state or country of origin if not from the United States. Such rules and regulations may require an appropriate fact panel that incorporates data regarding serving sizes and potency thereof.

3. The packaging, sale, or possession of products derived from cannabinoid hemp or hemp extract used for human consumption not labeled or offered in conformity with regulations under this section shall be grounds for the seizure or quarantine of the product, the imposition of a civil penalty against a processor or retailer, and the suspension, revocation or cancellation of a license, in accordance with this article.

§ 104. Processing of cannabinoid hemp and hemp extract. 1. No processor shall sell or agree to sell or deliver in the state any cannabinoid hemp, hemp extract or product derived therefrom, used for human consumption, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the board. Such containers shall have affixed thereto such labels as may be required by the rules of the board.

2. Processors shall take such steps necessary to ensure that the cannabinoid hemp or hemp extract used in their processing operation has only been grown with pesticides that are registered by the department of environmental conservation or that specifically meet the United States environmental protection agency registration exemption criteria for minimum risk, used in compliance with rules, regulations, standards and guidelines issued by the department of environmental conservation for pesticides.

3. All cannabinoid hemp, hemp extract and products derived therefrom used for human consumption shall be extracted and processed in accordance with good manufacturing processes pursuant to Part 117 or Part 111 of title 21 of the code of federal regulations, as may be defined, modified and decided upon by the board in rules or regulations.

4. As necessary to protect human health, the board shall have the authority to: (a) regulate and prohibit specific ingredients, excipients or methods used in processing cannabinoid hemp, hemp extract and products derived therefrom; and (b) prohibit, or expressly allow, certain products or product classes derived from cannabinoid hemp or hemp extract, to be processed.

§ 105. Laboratory testing. Every cannabinoid hemp processor shall contract with an independent commercial laboratory to test the hemp extract and products produced by the licensed processor. The board shall establish the necessary qualifications or certifications required for such laboratories used by licensees. The board is authorized to issue rules and regulations consistent with this article establishing the testing required, the reporting of testing results and the form for reporting such laboratory testing results. The board has authority to

require licensees to submit any cannabinoid hemp, hemp extract or product derived therefrom, processed or offered for sale within the state, for testing by the board. This section shall not obligate the board, in any way, to perform any testing on hemp, cannabinoid hemp, hemp extract or product derived therefrom.

§ 106. New York hemp product. The board may establish and adopt official grades and standards for cannabinoid hemp, hemp extract and products derived therefrom, as the board may deem advisable, which are produced for sale in this state and, from time to time, may amend or modify such grades and standards.

§ 107. Penalties. Notwithstanding the provision of any law to the contrary, the failure to comply with a requirement of this article, or a regulation thereunder, may be punishable by a civil penalty of not more than one thousand dollars for a first violation; not more than five thousand dollars for a second violation within three years; and not more than ten thousand dollars for a third violation and each subsequent violation thereafter, within three years.

§ 108. Hemp workgroup. The board, in consultation with the commissioner of the department of agriculture and markets, may appoint a New York state hemp and hemp extract workgroup, composed of growers, researchers, producers, processors, manufacturers and trade associations, to make recommendations for the industrial hemp and cannabinoid hemp programs, state and federal policies and policy initiatives, and opportunities for the promotion and marketing of cannabinoid hemp and hemp extract as consistent with federal and state laws, rules and regulations.

§ 109. Prohibitions. 1. Except as authorized by the United States food and drug administration, the processing of cannabinoid hemp or hemp extract used for human consumption is prohibited within the state unless the processor is licensed under this article.

2. Cannabinoid hemp and hemp extracts used for human consumption and grown or processed outside the state shall not be distributed or sold at retail within the state, unless they meet all standards established for cannabinoid hemp under state law and regulations.

3. The retail sale of cannabinoid hemp is prohibited in this state unless the retailer is licensed under this article.

§ 110. Special use permits. The board shall have the authority to issue temporary permits for carrying on any activity related to cannabinoid hemp, hemp extract and products derived therefrom, licensed under this article. The board may set reasonable fees for such permits, to establish the periods during which such permits are valid, 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. Permits, registrations and licenses.
129. Laboratory testing permits.
130. Special use permits.
131. Local opt-out; municipal control and preemption.
132. Penalties for violation of this chapter.
133. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation.
134. Lawful actions pursuant to this chapter.
135. Review by courts.
136. Illicit cannabis.
137. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products.
138. Access to criminal history information through the division of criminal justice services.
139. Severability.

§ 125. General prohibitions and restrictions. 1. No person shall cultivate, process, distribute for sale or sell at wholesale or retail or deliver to consumers any cannabis, cannabis product, medical cannabis or cannabinoid hemp or hemp extract product within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter unless otherwise authorized by law.

2. No registered organization, licensee, or permittee or other entity under the jurisdiction of the board shall sell, or agree to sell or deliver in this state any cannabis or cannabinoid hemp or hemp extract 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 or other entity under the jurisdiction of the board 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 twenty-one 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, or other entity under the jurisdiction of the board, shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any cannabis, cannabis product, or medical cannabis on credit; except that a registered organization, licensee or permittee may accept third party credit cards for the sale of any cannabis, cannabis product, or medical cannabis for which it is registered, licensed or permitted to dispense or sell to patients or cannabis consumers. This includes, but is not limited to, any consignment sale of any kind.

5. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall cease to be operated as a bona fide or legitimate premises within the contemplation of the registration, license, or permit issued for such premises, as determined within the judgment of the board.

6. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall refuse, nor any person holding a registration, license, or permit refuse, nor any officer or director of any corporation or organization holding a registration, license, or permit refuse, to appear and/or testify under oath at an inquiry or hearing held by the board, with respect to any matter bearing upon the registration, license, or permit, the conduct of any people at the

licensed premises, or bearing upon the character or fitness of such registrant, licensee, or permittee, or other entity under the jurisdiction of the board, to continue to hold any registration, license, or permit. Nor shall any of the above offer false testimony under oath at such inquiry or hearing.

7. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall engage, participate in, or aid or abet any violation of any provision of this chapter, or the rules or regulations of the board.

8. It shall be the responsibility of the registered organization, licensee or permittee, or other entity under the jurisdiction of the board, to exercise adequate supervision over the registered, licensed or permitted location. Persons registered, licensed, or permitted shall be held strictly accountable for any and all violations that occur upon any registered, licensed, or permitted premises, and for any and all violations committed by or permitted by any manager, agent or employee of such registered, licensed, or permitted person.

9. It shall be unlawful for any person, partnership or corporation operating a place for profit or pecuniary gain, with a capacity for the assemblage of twenty or more persons to permit a person or persons to come to the place of assembly for the purpose of cultivating, processing, distributing, or retail distribution or sale of cannabis or cannabis products on said premises. This includes, but is not limited, to, cannabis or cannabis products that are either provided by the operator of the place of assembly, their agents, servants or employees, or cannabis that is brought onto said premises by the person or persons assembling at such place, unless an appropriate registration, license, or permit has first been obtained from the board by the operator of said place of assembly.

10. 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 may promulgate such rules and regulations as it deems necessary to protect the public and the policy of the state, including to prioritize and promote New York cannabis. Further, all such cannabis or cannabis products must be distributed in a manner consistent with the provisions of this chapter.

11. No registered organization, licensee or any of its agents, servants or employees shall sell any cannabis product, or medical cannabis from house to house by means of a truck or otherwise, where the sale is consummated and delivery made concurrently at the residence or place of business of a cannabis consumer. This subdivision shall not prohibit the delivery by a registered organization to certified patients or their designated caregivers, pursuant to article three of this chapter.

12. 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, or medical cannabis at the residence or place of business of such patient, caregiver or consumer, nor shall any licensee receive or accept any order, for the sale of any cannabis product, or medical cannabis which shall be solicited at the residence or place of business of a patient, caregiver or consumer. This subdivision shall not prohibit the solicitation by a distributor of an order from any licensee at the licensed premises of such licensee.

§ 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 board. Provided, however, that the provisions of this section shall not be deemed to prohibit the amendment of a registration or license as provided for in this chapter. A violation of this section shall subject the registration, license, or permit to revocation for cause.

2. Where a registration or license for premises has been revoked, the board in its discretion may refuse to issue a registration, license, or permit under this chapter, for a period of up to five years after such revocation, for such premises or for any part of the building containing such premises and connected therewith.

3. In determining whether to issue such a proscription against granting any registration, license, or permit for such five-year period, in addition to any other factors deemed relevant to the board, the board shall, in the case of a license revoked due to the sale of cannabis to a person under the age of twenty-one not otherwise authorized by this chapter, determine whether the proposed subsequent licensee has obtained such premises through an arm's length transaction, and, if such transaction is not found to be an arm's length transaction, the office shall deny the issuance of such license.

4. For purposes of this section, "arm's length transaction" shall mean a sale of a fee of all undivided interests in real property, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, or any part thereof, in the open market, between an informed and willing buyer and seller where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale was made for the purpose of permitting the original licensee to avoid the effect of the revocation. The following sales shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of the revocation:

(a) a sale between relatives;

(b) a sale between related companies or partners in a business; or

(c) a sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, affected by other facts or circumstances that would indicate that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, is entered into for the primary purpose of permitting the original licensee to avoid the effect of the revocation.

5. No registered organization, licensee or permittee shall transport cannabis products or medical cannabis except in vehicles owned and operated by such registered organization, licensee or permittee, or hired and operated by such registered organization, licensee or permittee from a trucking or transportation company permitted and registered with the board.

6. No common carrier or person operating a transportation facility in this state, other than the United States government, shall knowingly receive for transportation or delivery within the state any cannabis products or medical cannabis unless the shipment is accompanied by copy of a bill of lading, or other document, showing the name and address of the consignor, the name and address of the consignee, the date of the shipment, and the quantity and kind of cannabis products or medical cannabis contained therein.

§ 127. Protections for the use of cannabis; unlawful discriminations prohibited. 1. No person, registered organization, licensee or permittee, employees, or their agents shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business or occupational or professional licensing board or office, solely for conduct permitted under this chapter. For the avoidance of doubt, the appellate division of the supreme court of the state of New York, and any disciplinary or character and fitness committees established by law are occupational and professional licensing boards within the meaning of this section. State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the federal controlled substances act solely for actions consistent with this chapter, except as pursuant to a valid court order.

2. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for conduct authorized under this chapter, except as exempted:

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

(b) if the institution has adopted a code of conduct prohibiting cannabis use on the basis of religious belief; or

(c) if a property is registered with the New York smoke-free housing registry, it is not required to permit the smoking of cannabis products on its premises.

3. For the purposes of medical care, including organ transplants, a certified patient's authorized use of medical cannabis must be considered the equivalent of the use of any other medication under the direction of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

4. (a) No employer shall take adverse employment action against an employee for using cannabis, unless (i) such employee's usage is governed by state or local law or rule, or a collective bargaining agreement that: (1) limits or prohibits the usage of cannabis while performing the employee's job duties; (2) limits or prohibits the usage of cannabis as a condition of attaining or maintaining a license, certification, or professional status required for employment; or (3) governs the testing and disciplinary procedures related to the use of cannabis by employees; and (ii) the employee's usage is in violation of such state or local law or rules, or collective bargaining agreement.

(b) Employees whose usage of medical cannabis is governed by state or local law or rules, or a collective bargaining agreement that: (i) limits or prohibits the usage of cannabis while performing the employee's job duties; (ii) limits or prohibits the usage of cannabis as a condition of attaining or maintaining a license, certification, or professional status required for employment; or (iii) governs the testing and disciplinary procedures related to the use of cannabis by

employees, shall be afforded the same rights, procedures and protections that are available and applicable to injured workers under the workers' compensation law, or any rules or regulations promulgated thereunder, when such injured workers are prescribed medications that may prohibit, restrict, or require the modification of the performance of their duties.

(c) Employees shall not face adverse employment actions for usage of cannabis, as such conduct is permitted under this chapter, prior to the beginning or after the conclusion of the employee's work hours, and off of the employer's premises and without use of the employer's equipment or other property.

(d) No employer shall take adverse employment action against an applicant for employment, or otherwise discriminate against or refuse to interview an applicant for employment, for using cannabis as such conduct is permitted under this chapter.

5. Nothing in this section shall interfere with an employer's obligation to provide a safe and healthy work place, free from recognized hazards, as required by state and federal occupation safety and health law or require an employer to commit any act that would cause the employer to be in violation of any other federal law, or that would result in the loss of a federal contract or federal funding.

6. Nothing in this section shall restrict an employer's ability to prohibit or take adverse employment action for the possession or use of intoxicating substances during work hours, or require an employer to commit any act that would cause the employer to be in violation of federal law, or that would result in the loss of a federal contract or federal funding. For the purposes of this section, an employer may consider an employee's ability to perform the employee's job responsibilities to be impaired when the employee manifests specific articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position.

7. As used in this section, "adverse employment action" means refusing to hire or employ, barring or discharging from employment, requiring a person to retire from employment, or discriminating against in compensation or in terms, conditions, or privileges of employment.

8. No person may be denied custody of or visitation or parenting time with a minor, for conduct allowed under section 222.05 of the penal law, unless the child's physical, mental or emotional condition has been impaired, or is in imminent danger of becoming impaired as a result of the person's behavior as established by a fair preponderance of the evidence. For the purposes of this section, this determination cannot be based solely on whether, when, and how often a person uses cannabis without separate evidence of harm.

§ 128. Permits, registrations and licenses. 1. No permit, registration or license shall be transferable or assignable except that notwithstanding any other provision of law, the permit, registration or license of a sole proprietor converting to corporate form, where such proprietor becomes the sole stockholder and only officer and director of such new corporation, may be transferred to the subject corporation if all requirements of this chapter remain the same with respect to such permit, registration or license as transferred and, further, the registered organization or licensee shall transmit to the board, within ten days of the transfer of license allowable under this subdivision, on a form prescribed by the board, notification of the transfer of such license.

2. No permit, 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. Permits, registrations and licenses issued under this chapter shall contain, in addition to any further information or material to be prescribed by the rules and regulations of the board, the following information:

(a) name of the person to whom the license is issued;

(b) type of license and what type of cannabis commerce 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 permits. 1. The board shall approve and permit one or more independent cannabis testing laboratories to test medical cannabis, adult-use cannabis and/or cannabinoid hemp or hemp extract.

2. To be permitted as an independent cannabis laboratory, a laboratory must apply to the board, on a form and in a manner prescribed by the office, and must demonstrate the following to the satisfaction of the board:

(a) the owners and directors of the laboratory are of good moral character;

(b) the laboratory and its staff has the skills, resources and expertise needed to accurately and consistently perform all of the testing required for adult-use cannabis, medical cannabis and/or cannabinoid hemp or hemp extract;

(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, and/or medical cannabis;

(d) the laboratory is physically located in New York state;

(e) the laboratory has been approved by the department of health pursuant to Part 55-2 of Title 10 of the New York Codes, Rules and Regulations, pertaining to laboratories performing environmental analysis; and

(f) the laboratory meets any and all requirements prescribed by this chapter and by the board in regulation.

3. The owner of a laboratory testing permit under this section shall not hold a permit, 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 board shall require that the permitted laboratory report testing results to the board in a manner, form and timeframe as determined by the office.

5. The board is authorized to promulgate regulations, requiring permitted laboratories to perform certain tests and services.

6. A laboratory granted a laboratory testing permit under this chapter shall not required to be licensed by the federal drug enforcement agency.

§ 130. Special use permits. The board is hereby authorized to issue the following kinds of permits for carrying on activities consistent with the policy and purpose of this chapter with respect to cannabis. The board has the authority to set fees for all permits issued pursuant to this section, to establish the periods during which permits are authorized, and to make rules and regulations, including emergency regulations, to implement this section.

1. Industrial cannabis permit - to purchase cannabis from one of the entities licensed by the board for use in the manufacture and sale of any of the following, when such cannabis is not otherwise suitable for consumption purposes, namely: (a) apparel, energy, paper, and tools; (b) scientific, chemical, mechanical and industrial products; or (c) any other industrial use as determined by the board in regulation.

2. Trucking permit - to allow for the trucking or transportation of cannabis products, or medical cannabis by a person other than a registered organization or licensee under this chapter.

3. Warehouse permit - to allow for the storage of cannabis, cannabis products, or medical cannabis at a location not otherwise registered or licensed by the office.

4. Packaging permit - to authorize a licensed cannabis distributor to sort, package, label and bundle cannabis products from one or more registered organizations or licensed processors, on the premises of the licensed cannabis distributor or at a warehouse for which a permit has been issued under this section.

§ 131. Local opt-out; municipal control and preemption. 1. The provisions of article four of this chapter authorizing the retail sale of adult-use cannabis to cannabis consumers shall not be applicable to a town, city or village which, after a mandatory referendum held pursuant to section twenty-three of the municipal home rule law, adopts a local law to prohibit the establishment or operation of retail dispensary licenses contained in article four of this chapter, within the jurisdiction of the town, city or village. Provided, however, that any town law shall apply to the area of the town outside of any village within such town.

2. Except as provided for in subdivision one of this section, all county, town, city and village governing bodies are hereby preempted from adopting any rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or hemp licenses. However, municipalities may pass local laws and ordinances governing the time, place and manner of licensed adult-use cannabis retail dispensaries, provided such ordinance or regulation does not make the operation of such licensed retail dispensaries unreasonably impracticable as determined by the board in consultation with the state cannabis advisory board.

§ 132. Penalties for violation of this chapter. 1. Any person who cultivates for sale or sells cannabis, cannabis products, or medical cannabis without having an appropriate registration, license or permit therefor, or whose registration, license, or permit has been revoked, surrendered or cancelled, may be subject to prosecution in accordance with article two hundred twenty-two of the penal law.

2. Any registered organization or licensee, who has received notification of a registration or license suspension pursuant to the provisions of this chapter, who sells cannabis, cannabis products, medical cannabis

or cannabinoid hemp or hemp extract during the suspension period, shall be subject to prosecution as provided in article two hundred twenty-two of the penal law, and upon conviction thereof under this section may be subject to a civil penalty of not more than five thousand dollars.

3. Any person who shall knowingly make any material false statement in the application for a registration, license or a permit under this chapter may be subject to a civil penalty of not more than two thousand dollars.

4. Any person under the age of twenty-one found to be in possession of cannabis or cannabis products who is not a certified patient pursuant to article three of this chapter shall be in violation of this chapter and shall be subject to the following penalty:

(a) (i) The person shall be subject to a civil penalty of not more than fifty dollars. The civil penalty shall be payable to the office of cannabis management.

(ii) Any identifying information provided by the enforcement agency for the purpose of facilitating payment of the civil penalty shall not be shared or disclosed under any circumstances with any other agency or law enforcement division.

(b) The person shall, upon payment of the required civil penalty, be provided with information related to the dangers of underage use of cannabis and information related to cannabis use disorder by the office.

(c) The issuance and subsequent payment of such civil penalty shall in no way qualify as a criminal accusation, admission of guilt, or a criminal conviction and shall in no way operate as a disqualification of any such person from holding public office, attaining public employment, or as a forfeiture of any right or privilege.

5. Cannabis recovered from individuals who are found to be in violation of this chapter may after notice and opportunity for a hearing be considered a nuisance and shall be disposed of or destroyed.

§ 133. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation. 1. Any registration, license or permit issued pursuant to this chapter may be revoked, cancelled, suspended and/or subjected to the imposition of a civil penalty for cause, and there shall be a rebuttable presumption of revocation for the following causes:

(a) conviction of the registered organization, licensee, permittee or his or her agent or employee for selling any illicit cannabis on the premises registered, licensed or permitted; or

(b) for transferring, assigning or hypothecating a registration, license or permit without prior written approval of the office.

2. Notwithstanding the issuance of a registration, license or permit by way of renewal, the board may revoke, cancel or suspend such registration, license or permit and/or may impose a civil penalty against any holder of such registration, license or permit, as prescribed by this section, for causes or violations occurring during the license period immediately preceding the issuance of such registration, license or permit.

3. (a) As used in this section, the term "for cause" shall also include the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the registered, licensed or permitted premises, or in the area in front of or adjacent to the registered or licensed premises, or in any parking lot provided by the registered organization or licensee for use by registered organization or licensee's patrons, which significantly adversely affects or tends to significantly adversely affect the

protection, health, welfare, safety, or repose of the inhabitants of the area in which the registered or licensed premises is located.

(b) (i) As used in this section, the term "for cause" shall also include deliberately misleading the board or office of cannabis management:

(A) as to the nature and character of the business to be operated by the registered organization, licensee or permittee; or

(B) by substantially altering the nature or character of such business during the registration or licensing period without seeking appropriate approvals from the board.

(ii) As used in this subdivision, the term "substantially altering the nature or character" of such business shall mean any significant and material alteration in the scope of business activities conducted by a registered organization, licensee or permittee that would require obtaining an alternate form of registration, license or permit.

4. As used in this chapter, the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the premises may be presumed upon the sixth incident reported to the board by a law enforcement agency, or discovered by the board during the course of any investigation, of misconduct, diversion or disorder on or about the premises or related to the operation of the premises, absent clear and convincing evidence of either fraudulent intent on the part of any complainant or a factual error with respect to the content of any report concerning such complaint relied upon by the board.

5. Notwithstanding any other provision of this chapter to the contrary, a suspension imposed under this section against the holder of a registration issued pursuant to article three of this chapter, shall only suspend the licensed activities related to the type of cannabis, medical cannabis or adult-use cannabis involved in the violation resulting in the suspension.

6. Any registration, license or permit issued by the board pursuant to this chapter may be revoked, cancelled or suspended and/or be subjected to the imposition of a monetary penalty set forth in this chapter in the manner prescribed by this section.

7. The board may on its own initiative, or on complaint of any person, institute proceedings to revoke, cancel or suspend any adult-use cannabis retail dispensary license or adult-use cannabis on-site consumption license and may impose a civil penalty against the licensee after a hearing at which the licensee shall be given an opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed in regulation by the board.

8. All other registrations, licenses or permits issued under this chapter may be revoked, cancelled, suspended and/or made subject to the imposition of a civil penalty by the office after a hearing to be held in such manner and upon such notice as may be prescribed in regulation by the board.

9. Where a licensee or permittee is convicted of two or more qualifying offenses within a five-year period, the office, upon receipt of notification of such second or subsequent conviction, shall, in addition to any other sanction or civil or criminal penalty imposed pursuant to this chapter, impose on such licensee a civil penalty not to exceed ten thousand dollars. For purposes of this subdivision, a qualifying offense shall mean the sale of cannabis to a person under the age of twenty-one not otherwise authorized by this chapter. For purposes of this subdivi-

sion only, a conviction of a licensee or an employee or agent of such licensee shall constitute a conviction of such licensee.

§ 134. Lawful actions pursuant to this chapter. 1. Contracts related to the operation of registered organizations, licenses and permits under this chapter shall be lawful and shall not be deemed unenforceable on the basis that the actions permitted pursuant to the registration, license or permit are prohibited by federal law.

2. The following actions are not unlawful as provided under this chapter, shall not be an offense under any state or local law, and shall not result in any civil penalty, fine, seizure, or forfeiture of assets, or be the basis for detention or search against any person acting in accordance with this chapter:

(a) Actions of a registered organization, licensee, or permittee, or the employees or agents of such registered organization, licensee or permittee, as permitted by this chapter and consistent with rules and regulations of the office, pursuant to a valid registration, license or permit issued by the board.

(b) Actions of those who allow property to be used by a registered organization, licensee, or permittee, or the employees or agents of such registered organization, licensee or permittee, as permitted by this chapter and consistent with rules and regulations of the office, pursuant to a valid registration, license or permit issued by the board.

(c) Actions of any person or entity, their employees, or their agents providing a service to a registered organization, licensee, permittee or a potential registered organization, licensee, or permittee, as permitted by this chapter and consistent with rules and regulations of the office, relating to the formation of a business.

(d) The purchase, cultivation, possession, or consumption of cannabis, and medical cannabis, as permitted by law, and consistent with rules and regulations of the board.

§ 135. Review by courts. An action by the board shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules including, but not limited to:

(a) Refusal by the board to issue a registration, license, or a permit.

(b) The revocation, cancellation or suspension of a registration, license, or permit by the board.

(c) The failure or refusal by the board to render a decision upon any application or hearing submitted to or held by the board within sixty days after such submission or hearing.

(d) The transfer by the board of a registration, license, or permit to any other entity or premises, or the failure or refusal by the board to approve such a transfer.

(e) Refusal to approve alteration of premises.

(f) Refusal to approve a corporate change in stockholders, stockholdings, officers or directors.

§ 136. Illicit cannabis. 1. "Illicit cannabis" means and includes any cannabis product or medical cannabis that is owned, cultivated, distributed, bought, sold, packaged, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported for which any tax required to have been paid under any applicable state law has not been paid.

2. Any person holding a license, permit or registration under this chapter who shall knowingly possess or have under his or her control any cannabis known by the person to be illicit cannabis is guilty of a class B misdemeanor.

3. Any person holding a license, permit or registration pursuant to this chapter who shall knowingly barter, exchange, give or sell, or offer to barter, exchange, give or sell any cannabis known by the person to be illicit cannabis is guilty of a misdemeanor.

4. Any person holding a license, permit or registration pursuant to this chapter who shall knowingly possess or have under his or her control or transport any cannabis known by the person to be illicit cannabis with intent to barter, exchange, give or sell such cannabis is guilty of a class B misdemeanor.

5. Any person who, being the owner, lessee or occupant of any room, shed, tenement, booth, building, float, vessel or part thereof knowingly permits the same to be used for the cultivation, processing, distribution, purchase, sale, warehousing, transportation or storage of any illicit cannabis is guilty of a violation.

§ 137. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products. 1. The following are forbidden to traffic in cannabis except in extraordinary circumstances as determined by the board:

(a) An individual who has been convicted of an offense related to the functions or duties of owning and operating a business within three years of the application date, except that if the board determines that the owner or licensee is otherwise suitable to be issued a license, and the board determines granting the license is not inconsistent with public safety, the board shall conduct a thorough review of the nature of the crime, conviction, circumstances and evidence of rehabilitation of the owner in accordance with article twenty-three-A of the correction law, and shall evaluate the suitability of the owner or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the functions or duties of owning and operating a business, the board shall include, but not be limited to, the following:

(i) a felony conviction within the past five years involving fraud, money laundering, forgery and other unlawful conduct related to owning and operating a business; and

(ii) a felony conviction within the past five years for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(b) A person under the age of twenty-one years;

(c) A partnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or a person lawfully admitted for permanent residence in the United States, not less than twenty-one years of age; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or persons lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and directors are not less than twenty-one years of age; and provided, further, that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms

to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than twenty-one years of age;

(d) A person who shall have had any registration or license issued under this chapter revoked for cause, until the expiration of one year from the date of such revocation;

(e) A person not registered or licensed under the provisions of this chapter, who has been convicted of a misdemeanor or felony in violation of this chapter, until the expiration of one year from the date of such conviction; or

(f) A corporation or partnership, if any officer and director or any partner, while not licensed under the provisions of this chapter, has been convicted of a misdemeanor or felony in violation of this chapter, or has had a registration or license issued under this chapter revoked for cause, until the expiration of up to one year from the date of such conviction or revocation as determined by the board.

2. Except as may otherwise be provided for in regulation, it shall be unlawful for any chief of police, police officer or subordinate of any police department in the state, to be either directly or indirectly interested in the cultivation, processing, distribution, or sale of cannabis products or to offer for sale, or recommend to any registered organization or licensee any cannabis products. A person may not be denied any registration or license granted under the provisions of this chapter solely on the grounds of being the spouse or domestic partner of a public servant described in this section. The solicitation or recommendation made to any registered organization or licensee, to purchase any cannabis products by any police official or subordinate as hereinabove described, shall be presumptive evidence of the interest of such official or subordinate in the cultivation, processing, distribution, or sale of cannabis products.

3. No elected village officer shall be subject to the limitations set forth in subdivision two of this section unless such elected village officer shall be assigned duties directly relating to the operation or management of the police department.

§ 138. Access to criminal history information through the division of criminal justice services. In connection with the administration of this chapter, the board is authorized to request, receive and review criminal history information through the division of criminal justice services with respect to any person seeking a registration, license, permit or authorization to cultivate, process, distribute or sell medical cannabis, adult-use cannabis, cannabinoid hemp or hemp extract. At the board's request, each person, member, principal and/or officer of the applicant shall submit to the board his or her fingerprints in such form and in such manner as specified by the division, for the purpose of conducting a criminal history search identifying criminal convictions and pending criminal charges and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the reasonable prescribed processing fees for the cost of the division's full search and retain procedures and a national criminal history record check. The board, or their designee, shall submit such fingerprints and the processing fee to the division. The division shall forward to the board a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division pursuant to this subdivision may

also be submitted to the federal bureau of investigation for a national criminal history record check. If additional copies of fingerprints are required, the applicant shall furnish them upon request. Upon receipt of such criminal history information, the board shall provide such applicant with a copy of such criminal history information, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to regulations and procedures established by the division of criminal justice services.

§ 139. Severability. If any provision of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

§ 3. Section 3302 of the public health law, as added by chapter 878 of the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 22, 23, 24, 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998, subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of subdivision 20, the opening paragraph of subdivision 22 and subdivision 29 as amended by chapter 163 of the laws of 1973, subdivision 21 as amended by chapter 1 of the laws of 2020, subdivision 31 as amended by section 4 of part A of chapter 58 of the laws of 2004, subdivision 41 as added by section 6 of part A of chapter 447 of the laws of 2012, and subdivisions 42 and 43 as added by section 13 of part D of chapter 60 of the laws of 2014, is amended to read as follows:

§ 3302. Definitions of terms of general use in this article. Except where different meanings are expressly specified in subsequent provisions of this article, the following terms have the following meanings:

1. "Addict" means a person who habitually uses a controlled substance for a non-legitimate or unlawful use, and who by reason of such use is dependent thereon.

2. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

3. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. No person may be authorized to so act if under title VIII of the education law such person would not be permitted to engage in such conduct. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

4. [~~"Concentrated Cannabis" means~~

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

~~(b) a material, preparation, mixture, compound or other substance which contains more than two and one-half percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta-1 (6) monoterpene numbering system.~~

~~5.~~] "Controlled substance" means a substance or substances listed in section thirty-three hundred six of this [~~chapter~~] **title**.

[~~6.~~] 5. "Commissioner" means commissioner of health of the state of New York.

[~~7.~~] 6. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

[~~8.~~] 7. "Department" means the department of health of the state of New York.

[~~9.~~] 8. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by lawful means, including by means of the internet, and includes the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

[~~10.~~] 9. "Distribute" means to deliver a controlled substance, including by means of the internet, other than by administering or dispensing.

[~~11.~~] 10. "Distributor" means a person who distributes a controlled substance.

[~~12.~~] 11. "Diversion" means manufacture, possession, delivery or use of a controlled substance by a person or in a manner not specifically authorized by law.

[~~13.~~] 12. "Drug" means

(a) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; and

(c) substances (other than food) intended to affect the structure or a function of the body of man or animal. It does not include devices or their components, parts, or accessories.

[~~14.~~] 13. "Federal agency" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

[~~15.~~] 14. "Federal controlled substances act" means the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and any act or acts amendatory or supplemental thereto or regulations promulgated thereunder.

[~~16.~~] 15. "Federal registration number" means such number assigned by the Federal agency to any person authorized to manufacture, distribute, sell, dispense or administer controlled substances.

[~~17.~~] 16. "Habitual user" means any person who is, or by reason of repeated use of any controlled substance for non-legitimate or unlawful use is in danger of becoming, dependent upon such substance.

[~~18.~~] 17. "Institutional dispenser" means a hospital, veterinary hospital, clinic, dispensary, maternity home, nursing home, mental hospital or similar facility approved and certified by the department as authorized to obtain controlled substances by distribution and to dispense and administer such substances pursuant to the order of a practitioner.

[~~19.~~] 18. "License" means a written authorization issued by the department or the New York state department of education permitting persons to engage in a specified activity with respect to controlled substances.

[~~20.~~] 19. "Manufacture" means the production, preparation, propagation, compounding, cultivation, conversion or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the

preparation, compounding, packaging or labeling of a controlled substance:

(a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) by a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

[~~21. "Marihuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term "marihuana" shall not include:~~

~~(a) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination;~~

~~(b) hemp, as defined in subdivision one of section five hundred five of the agriculture and markets law;~~

~~(c) cannabinoid hemp as defined in subdivision two of section thirty-three hundred ninety-eight of this chapter; or~~

~~(d) hemp extract as defined in subdivision five of section thirty-three hundred ninety-eight of this chapter.~~

~~22.~~] **20.** "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in [~~subdivision~~] **paragraph** (a) **of this subdivision**, but not including the isoquinoline alkaloids of opium;

(c) opium poppy and poppy straw.

[~~23.~~] **21.** "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section [~~3306~~] **thirty-three hundred six** of this [~~article~~] **title**, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

[~~24.~~] **22.** "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

[~~25.~~] **23.** "Person" means individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

[~~26.~~] **24.** "Pharmacist" means any person licensed by the state department of education to practice pharmacy.

[~~27.~~] **25.** "Pharmacy" means any place registered as such by the New York state board of pharmacy and registered with the Federal agency pursuant to the federal controlled substances act.

[~~28.~~] 26. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

[~~29.~~] 27. "Practitioner" means:

A physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" only as to such substances, or conduct relating to such substances, as is permitted by his license, permit or otherwise permitted by law.

[~~30.~~] 28. "Prescribe" means a direction or authorization, by prescription, permitting an ultimate user lawfully to obtain controlled substances from any person authorized by law to dispense such substances.

[~~31.~~] 29. "Prescription" shall mean an official New York state prescription, an electronic prescription, an oral prescription[~~,~~] or an out-of-state prescription[~~, or any one~~].

[~~32.~~] 30. "Sell" means to sell, exchange, give or dispose of to another, or offer or agree to do the same.

[~~33.~~] 31. "Ultimate user" means a person who lawfully obtains and possesses a controlled substance for his own use or the use by a member of his household or for an animal owned by him or in his custody. It shall also mean and include a person designated, by a practitioner on a prescription, to obtain such substance on behalf of the patient for whom such substance is intended.

[~~34.~~] 32. "Internet" means collectively computer and telecommunications facilities which comprise the worldwide network of networks that employ a set of industry standards and protocols, or any predecessor or successor protocol to such protocol, to exchange information of all kinds. "Internet," as used in this article, also includes other networks, whether private or public, used to transmit information by electronic means.

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

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

[~~37.~~] 35. "Electronic prescription" means a prescription issued with an electronic signature and transmitted by electronic means in accordance with regulations of the commissioner and the commissioner of education and consistent with federal requirements. A prescription generated on an electronic system that is printed out or transmitted via facsimile is not considered an electronic prescription and must be manually signed.

[~~38.~~] 36. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities. "Electronic" shall not include facsimile.

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

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

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

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

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

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

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

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

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

§ 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the laws of 2006, are amended to read as follows:

(13) [~~Marihuana.~~

~~(14)~~] Mescaline.

[~~(15)~~] **(14)** Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

[~~(16)~~] **(15)** Peyote. Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts.

[~~(17)~~] **(16)** N-ethyl-3-piperidyl benzilate.

[~~(18)~~] **(17)** N-methyl-3-piperidyl benzilate.

[~~(19)~~] **(18)** Psilocybin.

[~~(20)~~] **(19)** Psilocyn.

[~~(21)~~] **(20)** Tetrahydrocannabinols. Synthetic **tetrahydrocannabinols not derived from the cannabis plant that are** equivalents of the substances contained in the plant, or in the resinous extractives of cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

[~~/\~~] **delta** 1 cis or trans tetrahydrocannabinol, and their optical isomers

[~~/\~~] **delta** 6 cis or trans tetrahydrocannabinol, and their optical isomers

[~~/\~~] **delta** 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally

standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

[~~(22)~~] (21) Ethylamine analog of phencyclidine. Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

[~~(23)~~] (22) Pyrrolidine analog of phencyclidine. Some trade or other names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

[~~(24)~~] (23) Thiophene analog of phencyclidine. Some trade or other names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP.

[~~(25)~~] (24) 3,4-methylenedioxymethamphetamine (MDMA).

[~~(26)~~] (25) 3,4-methylendioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA.

[~~(27)~~] (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hydroxy MDA.

[~~(28)~~] (27) 1-{1- (2-thienyl) cyclohexyl} pyrrolidine. Some other names: TCPY.

[~~(29)~~] (28) Alpha-ethyltryptamine. Some trade or other names: etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine; 3- (2-aminobutyl) indole; Alpha-ET or AET.

[~~(30)~~] (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other names: DOET.

[~~(31)~~] (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.

[~~(32)~~] (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts and salts of isomers.

§ 5. 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~~] 222.00 of the penal law.

§ 5-a. Section 1399-q of the public health law, as amended by chapter 335 of the laws of 2017, is amended to read as follows:

§ 1399-q. Smoking and vaping restrictions inapplicable. 1. This article shall not apply to:

[~~1.~~] (a) Private homes[~~,~~] and private residences [~~and private automobiles~~];

[~~2.~~] (b) Private automobiles;

(c) A hotel or motel room rented to one or more guests;

[~~3.~~] (d) Retail tobacco businesses;

[~~4.~~] (e) Membership associations; provided, however, that smoking and vaping shall only be allowed in membership associations in which all of the duties with respect to the operation of such association, including, but not limited to, the preparation of food and beverages, the service of food and beverages, reception and secretarial work, and the security services of the membership association are performed by members of such membership association who do not receive compensation of any kind from the membership association or any other entity for the performance of such duties;

[~~5.~~] (f) Cigar bars that, in the calendar year ending December thirty-first, two thousand two, generated ten percent or more of its

total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the appropriate enforcement officer, as defined in subdivision one of section thirteen hundred ninety-nine-t of this article. Such registration shall remain in effect for one year and shall be renewable only if: (a) in the preceding calendar year, the cigar bar generated ten percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (b) the cigar bar has not expanded its size or changed its location from its size or location since December thirty-first, two thousand two;

[~~6.~~] **(g)** Outdoor dining areas of food service establishments with no roof or other ceiling enclosure; provided, however, that smoking and vaping may be permitted in a contiguous area designated for smoking and vaping so long as such area: (a) constitutes no more than twenty-five percent of the outdoor seating capacity of such food service establishment, (b) is at least three feet away from the outdoor area of such food service establishment not designated for smoking and vaping, and (c) is clearly designated with written signage as a smoking and vaping area;

[~~7.~~] **(h)** Enclosed rooms in food service establishments, bars, catering halls, convention halls, hotel and motel conference rooms, and other such similar facilities during the time such enclosed areas or rooms are being used exclusively for functions where the public is invited for the primary purpose of promoting and sampling tobacco products or electronic cigarettes, and the service of food and drink is incidental to such purpose, provided that the sponsor or organizer gives notice in any promotional material or advertisements that smoking and vaping will not be restricted, and prominently posts notice at the entrance of the facility and has provided notice of such function to the appropriate enforcement officer, as defined in subdivision one of section thirteen hundred ninety-nine-t of this article, at least two weeks prior to such function. The enforcement officer shall keep a record of all tobacco sampling events, and such record shall be made available for public inspection. No such facility shall permit smoking and vaping under this subdivision for more than two days in any calendar year; [~~and~~

~~8.~~] **(i)** Retail electronic cigarette stores, provided however, that such stores may only permit the use of electronic cigarettes[~~.~~]**; and**

(j) Adult-use on-site consumption premises authorized pursuant to article four of the cannabis law, provided however, that such locations may only permit the smoking or vaping of cannabis.

2. The restrictions of this article on the smoking or vaping of cannabis shall continue to apply to those locations identified in paragraphs (b), (d), (f), (g), (h) and (i) of subdivision one of this section.

§ 6. Title 5-A of article 33 of the public health law is REPEALED.

§ 6-a. Article 33-B of the public health law is REPEALED.

§ 6-b. The commissioner of health and the cannabis control board shall work in conjunction to expeditiously transfer the oversight of the medical use of cannabis to ensure continuity of care, and the responsibility for regulation of cannabinoid hemp and hemp extract, from the department of health to the office of cannabis management. For the purposes of this section continuity of care shall include, but not be limited to, a certified patient's ability to engage in the lawful medical use of cannabis, and a registered organization's ability to conduct its lawful operations.

§ 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs (a) and (b) of subdivision 11 of section 1311 of the civil practice law

and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdivision 11 as amended by section 47 of part A1 of chapter 56 of the laws of 2010, are amended to read as follows:

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

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

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

(b) No judgment or order of forfeiture shall be accepted for filing unless it is accompanied by an affidavit from the claiming authority that written notice of judgment or order, including the terms of such, has been given to the office of victim services, the state division of criminal justice services[~~, and in the case of a forfeiture based on a felony defined in article two hundred twenty or section 221.30 or 221.55 of the penal law, to the state division of substance abuse services~~].

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

1. [~~"Marijuana"~~] **"Cannabis"** means [~~marijuana~~] **cannabis** as defined in [~~section thirty-three hundred two of this chapter~~] **section 222.00 of the**

penal law and shall also include tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinol.

§ 9. 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 cannabis and concentrated cannabis as defined in section 222.00 of the penal law.

§ 9-a. Subdivision 1 of section 1192 of the vehicle and traffic law, as added by chapter 47 of the laws of 1988, is amended to read as follows:

1. Driving while ability impaired. a. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the consumption of alcohol.

b. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the use of cannabis or concentrated cannabis as defined in section 222.00 of the penal law.

§ 9-b. Paragraph (a) of subdivision 2 of section 49-a of the navigation law, as amended by chapter 239 of the laws of 2016, is amended to read as follows:

(a) (1) No person shall operate a vessel upon the waters of the state while his or her ability to operate such vessel is impaired by the consumption of alcohol. (2) No person shall operate a vessel upon the waters of the state while his or her ability to operate such vessel is impaired by the use of cannabis or concentrated cannabis as defined in section 222.00 of the penal law.

(a-1) (1) A violation of paragraph (a) of this subdivision shall be an offense and shall be punishable by a fine of not less than three hundred dollars nor more than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. (2) A person who operates a vessel in violation of paragraph (a) of this subdivision after being convicted of a violation of any subdivision of this section within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment. (3) A person who operates a vessel in violation of paragraph (a) of this subdivision after being convicted two or more times of a violation of any subdivision of this section within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not less than seven hundred fifty dollars nor more than fifteen hundred dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment.

§ 9-c. Subdivision 5-a of section 49-a of the navigation law, as added by chapter 239 of the laws of 2016, is amended to read as follows:

5-a. Sentencing; previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision two of this section pursuant to subparagraph two of paragraph (f) of subdivision two of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision two of this section pursuant to subparagraph three of paragraph (f) of subdivision two of this section, the court shall consider any prior convictions the

person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years. When sentencing a person for a violation of subparagraph two of paragraph [~~(a)~~] **(a-1)** of subdivision two of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of the vehicle and traffic law within the preceding five years. When sentencing a person for a violation of subparagraph three of paragraph [~~(a)~~] **(a-1)** of subdivision two of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years.

§ 9-d. Paragraph (a) of subdivision 1 of section 25.24 of the parks, recreation and historic preservation law, as amended by chapter 311 of the laws of 2007, is amended to read as follows:

(a)**(1)** No person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while his or her ability to operate such snowmobile is impaired by the consumption of alcohol. **(2) No person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while his or her ability to operate such snowmobile is impaired by the use of cannabis or concentrated cannabis as defined in section 222.00 of the penal law. (3)** A violation of this subdivision shall be an offense and shall be punishable by a fine of not less than two hundred fifty dollars nor more than three hundred fifty dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. A person who operates a snowmobile in violation of this subdivision after being convicted of a violation of any subdivision of this section within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than fifteen hundred dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment.

§ 10. Subdivision 9 of section 220.00 of the penal law, as amended by chapter 664 of the laws of 1985, is amended to read as follows:

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

§ 10-a. Subdivision 5 of section 220.00 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

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

§ 11. Subdivision 4 of section 220.06 of the penal law is REPEALED.

§ 12. Subdivision 10 of section 220.09 of the penal law is REPEALED.

§ 13. Subdivision 3 of section 220.34 of the penal law is REPEALED.

§ 14. Subdivision 6 of section 220.00 of the penal law is REPEALED.

§ 15. Article 221 of the penal law is REPEALED.

§ 16. The penal law is amended by adding a new article 222 to read as follows:

ARTICLE 222

CANNABIS

Section 222.00 Cannabis; definitions.

222.05 Personal use of cannabis.
222.10 Restrictions on cannabis use.
222.15 Personal cultivation of cannabis.
222.20 Licensing of cannabis production and distribution; defense.
222.25 Unlawful possession of cannabis.
222.30 Criminal possession of cannabis in the third degree.
222.35 Criminal possession of cannabis in the second degree.
222.40 Criminal possession of cannabis in the first degree.
222.45 Unlawful sale of cannabis.
222.50 Criminal sale of cannabis in the third degree.
222.55 Criminal sale of cannabis in the second degree.
222.60 Criminal sale of cannabis in the first degree.
222.65 Aggravated criminal sale of cannabis.

§ 222.00 Cannabis; definitions.

1. "Cannabis" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp extract as defined in section three of the cannabis law.

2. "Concentrated cannabis" means:

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

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

3. For the purposes of this article, "sell" shall mean to sell, exchange or dispose of for compensation. "Sell" shall not include the transfer of cannabis or concentrated cannabis between persons twenty-one years of age or older without compensation in the quantities authorized in paragraph (b) of subdivision one of section 222.05 of this article.

4. For the purposes of this article, "smoking" shall have the same meaning as that term is defined in section three of the cannabis law.

§ 222.05 Personal use of cannabis.

Notwithstanding any other provision of law to the contrary:

1. The following acts are lawful for persons twenty-one years of age or older: (a) possessing, displaying, purchasing, obtaining, or transporting up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis;

(b) transferring, without compensation, to a person twenty-one years of age or older, up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis;

(c) using, smoking, ingesting, or consuming cannabis or concentrated cannabis unless otherwise prohibited by state law;

(d) possessing, using, displaying, purchasing, obtaining, manufacturing, transporting or giving to any person twenty-one years of age or older cannabis paraphernalia or concentrated cannabis paraphernalia;

(e) planting, cultivating, harvesting, drying, processing or possessing cultivated cannabis in accordance with section 222.15 of this article; and

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

2. Cannabis, concentrated cannabis, cannabis paraphernalia or concentrated cannabis paraphernalia involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure or forfeiture of assets under article four hundred eighty of this chapter, section thirteen hundred eleven of the civil practice law and rules, or other applicable law, and no conduct deemed lawful by this section shall constitute the basis for approach, search, seizure, arrest or detention.

3. Except as provided in subdivision four of this section, none of the following shall, individually or in combination with each other, constitute reasonable suspicion of a crime or be used as evidence of probable cause in any criminal proceeding against a defendant twenty-one years of age or older:

(a) the odor of cannabis or of burnt cannabis;

(b) the possession of or the suspicion of possession of cannabis or concentrated cannabis in the amounts authorized in this section;

(c) the possession of multiple containers of cannabis without evidence of possession of more than three ounces of cannabis or twenty-four grams of concentrated cannabis;

(d) the presence of cash or currency in proximity to cannabis or concentrated cannabis; or

(d) the planting, cultivating, harvesting, drying, processing or possessing cultivated cannabis in accordance with section 222.15 of this article.

4. Subdivision three of this section shall not apply when a law enforcement officer is investigating: (a) an alleged offense pursuant to this article; or (b) whether a person is operating a motor vehicle, vessel or snowmobile while impaired by cannabis or concentrated cannabis as defined in section 222.00 of this article or drugs or the combined influence of drugs or of alcohol and any drug or drugs in violation of paragraph (b) of subdivision one, subdivision four or subdivision four-a of section eleven hundred ninety-two of the vehicle and traffic law, or subparagraph two of paragraph (a) or paragraph (e) of subdivision two of section forty-nine-a of the navigation law, or subparagraph two of paragraph (a) or paragraph (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law.

§ 222.10 Restrictions on cannabis use.

Unless otherwise authorized by law or regulation, no person shall:

1. smoke or vape cannabis in a location where smoking or vaping cannabis is prohibited pursuant to article thirteen-E of the public health law; or

2. possess, smoke, vape or ingest cannabis or concentrated cannabis in or upon the grounds of a school, as defined in subdivision ten of section eleven hundred twenty-five of the education law or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law; provided, however, provisions of this subdivision shall not apply to acts that are in compliance with article three of the cannabis law.

Violations of restrictions on cannabis use are subject to a civil penalty not exceeding twenty-five dollars or an amount of community service not exceeding twenty hours.

§ 222.15 Personal cultivation of cannabis.

1. Notwithstanding the provisions of section thirty-three hundred eighty-two of the public health law, and unless otherwise authorized by law or regulation, no person may:

(a) plant, cultivate, harvest, dry, process or possess more than six mature cannabis plants at any one time; or

(b) plant, cultivate, harvest, dry, process or possess, within his or her private residence, or on the grounds of his or her private residence, more than six mature cannabis plants at any one time; or

(c) being under the age of twenty-one, plant, cultivate, harvest, dry, process or possess cannabis plants.

2. Any mature cannabis plant described in paragraph (a) or (b) of subdivision one of this section, and any cannabis produced by any such cannabis plant or plants in excess of three ounces, cultivated, harvested, dried, processed or possessed pursuant to paragraph (a) or (b) of subdivision one of this section shall, unless otherwise authorized by law or regulation, be stored except for incidental periods within such person's private residence or storage space or on the grounds of such person's private residence or storage space. Such person shall take reasonable steps designed to assure that such cultivated cannabis is in a secured place.

3. A county, town, city or village may enact and enforce regulations to reasonably regulate the actions and conduct set forth in subdivision one of this section; provided that:

(a) a violation of any such a regulation, as approved by such county, town, city or village enacting the regulation, may constitute no more than an infraction and may be punishable by no more than a discretionary civil penalty of two hundred dollars or less; and

(b) no county, town, city or village may enact or enforce any such regulation or regulations that may completely or essentially prohibit a person from engaging in the action or conduct authorized by subdivision one of this section.

A violation of subdivision one or two of this section may be subject to a civil penalty of up to one hundred twenty-five dollars.

§ 222.20 Licensing of cannabis production and distribution; defense.

In any prosecution for an offense involving cannabis under this article or an authorized local law, it is a defense that the defendant was engaged in such activity in compliance with the cannabis law.

§ 222.25 Unlawful possession of cannabis.

A person is guilty of unlawful possession of cannabis when he or she knowingly and unlawfully possesses cannabis and such cannabis weighs more than three ounces or concentrated cannabis and such concentrated cannabis weighs more than twenty-four grams.

Unlawful possession of cannabis is a violation punishable by a fine of not more than one hundred twenty-five dollars.

§ 222.30 Criminal possession of cannabis in the third degree.

A person is guilty of criminal possession of cannabis in the third degree when he or she knowingly and unlawfully possesses:

1. cannabis and such cannabis weighs more than sixteen ounces; or

2. concentrated cannabis and such concentrated cannabis weighs more than five ounces.

Criminal possession of cannabis in the third degree is a class A misdemeanor.

§ 222.35 Criminal possession of cannabis in the second degree.

A person is guilty of criminal possession of cannabis in the second degree when he or she knowingly and unlawfully possesses:

1. cannabis and such cannabis weighs more than five pounds; or

2. concentrated cannabis and such concentrated cannabis weighs more than two pounds.

Criminal possession of cannabis in the second degree is a class E felony.

§ 222.40 Criminal possession of cannabis in the first degree.

A person is guilty of criminal possession of cannabis in the first degree when he or she knowingly and unlawfully possesses:

1. cannabis and such cannabis weighs more than ten pounds; or

2. concentrated cannabis and such concentrated cannabis weighs more than four pounds.

Criminal possession of cannabis in the first degree is a class D felony.

§ 222.45 Unlawful sale of cannabis.

A person is guilty of unlawful sale of cannabis when he or she knowingly and unlawfully sells cannabis or concentrated cannabis.

Unlawful sale of cannabis is a violation punishable by a fine of not more than two hundred fifty dollars.

§ 222.50 Criminal sale of cannabis in the third degree.

A person is guilty of criminal sale of cannabis in the third degree when:

1. he or she knowingly and unlawfully sells more than three ounces of cannabis or more than twenty-four grams of concentrated cannabis; or

2. being twenty-one years of age or older, he or she knowingly and unlawfully sells or gives, or causes to be given or sold, cannabis or concentrated cannabis to a person less than twenty-one years of age; except that in any prosecution under this subdivision, it is a defense that the defendant was less than three years older than the person under the age of twenty-one at the time of the offense. This subdivision shall not apply to designated caregivers, practitioners, employees of a registered organization or employees of a designated caregiver facility acting in compliance with article three of the cannabis law.

Criminal sale of cannabis in the third degree is a class A misdemeanor.

§ 222.55 Criminal sale of cannabis in the second degree.

A person is guilty of criminal sale of cannabis in the second degree when:

1. he or she knowingly and unlawfully sells more than sixteen ounces of cannabis or more than five ounces of concentrated cannabis; or

2. being twenty-one years of age or older, he or she knowingly and unlawfully sells or gives, or causes to be given or sold, more than three ounces of cannabis or more than twenty-four grams of concentrated cannabis to a person less than eighteen years of age. This subdivision shall not apply to designated caregivers, practitioners, employees of a registered organization or employees of a designated caregiver facility acting in compliance with article three of the cannabis law.

Criminal sale of cannabis in the second degree is a class E felony.

§ 222.60 Criminal sale of cannabis in the first degree.

A person is guilty of criminal sale of cannabis in the first degree when he or she knowingly and unlawfully sells more than five pounds of cannabis or more than two pounds of concentrated cannabis.

Criminal sale of cannabis in the first degree is a class D felony.

§ 222.65 Aggravated criminal sale of cannabis.

A person is guilty of aggravated criminal sale of cannabis when he or she knowingly and unlawfully sells cannabis or concentrated cannabis weighing one hundred pounds or more.

Aggravated criminal sale of cannabis is a class C felony.

§ 17. Paragraph (k) of subdivision 3 of section 160.50 of the criminal procedure law, as amended by chapter 132 of the laws of 2019, is amended to read as follows:

(k) (i) The conviction was for a violation of article two hundred twenty or section 240.36 of the penal law prior to the effective date of article two hundred twenty-one of the penal law, and the sole controlled substance involved was marihuana and the conviction was only for a **misdemeanor and/or** violation [~~or violations~~]; or

(ii) the conviction is for an offense defined in section 221.05 or 221.10 of the penal law prior to the effective date of [~~the~~] chapter **one hundred thirty-two** of the laws of two thousand nineteen [~~that amended this paragraph~~]; or

(iii) the conviction is for an offense defined in [~~section~~] **former sections** 221.05 [~~or~~]**,** 221.10**, 221.15, 221.20, 221.35, or 221.40** of the penal law**; or**

(iv) the conviction was for a violation of section 220.03 or 220.06 of the penal law prior to the effective date of the chapter of the laws of two thousand twenty-one that amended this paragraph, and the sole controlled substance involved was concentrated cannabis; or

(v) the conviction is for an offense defined in sections 222.10, 222.15, 222.25 or 222.45 of the penal law.

No defendant shall be required or permitted to waive eligibility for sealing or expungement pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of [~~section 221.05~~] sections **222.10, 222.15, 222.25** or [~~section 221.10~~] **222.45** of the penal law and any such waiver shall be deemed void and wholly unenforceable.

§ 18. Paragraph (k) of subdivision 1 of section 440.10 of the criminal procedure law, as added by chapter 132 of the laws of 2019, is amended to read as follows:

(k) The judgment occurred prior to the effective date of **the laws of two thousand twenty-one that amended** this paragraph and is a conviction for an offense as defined in subparagraphs (i) [~~or~~]**,** (ii)**, (iii) or (iv)** of paragraph (k) of subdivision three of section 160.50 of this part, in which case the court shall presume that a conviction by plea for the aforementioned offenses was not knowing, voluntary and intelligent if it has severe or ongoing consequences, including but not limited to potential or actual immigration consequences, and shall presume that a conviction by verdict for the aforementioned offenses constitutes cruel and unusual punishment under section five of article one of the state constitution, based on those consequences. The people may rebut these presumptions.

§ 19. Intentionally omitted.

§ 20. Intentionally omitted.

§ 21. Intentionally omitted.

§ 22. Subdivision 1 of section 170.56 of the criminal procedure law, as amended by chapter 360 of the laws of 1977, is amended to read as follows:

1. Upon or after arraignment in a local criminal court upon an information, a prosecutor's information or a misdemeanor complaint, where the sole remaining count or counts charge a violation or violations of section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] **220.10, 222.15, 222.25, 222.30, 222.45 or 222.50** of the penal law**, or upon summons for a nuisance offense under section sixty-five-c of the alcoholic beverage control law** and before the entry of a plea of guilty thereto or

commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal, or upon a finding that adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument; provided, however, that the court may not order such adjournment in contemplation of dismissal or dismiss the accusatory instrument if: (a) the defendant has previously been granted such adjournment in contemplation of dismissal, or (b) the defendant has previously been granted a dismissal under this section, or (c) the defendant has previously been convicted of any offense involving controlled substances, or (d) the defendant has previously been convicted of a crime and the district attorney does not consent or (e) the defendant has previously been adjudicated a youthful offender on the basis of any act or acts involving controlled substances and the district attorney does not consent. **Notwithstanding the limitations set forth in this subdivision, the court may order that all proceedings be suspended and the action adjourned in contemplation of dismissal based upon a finding of exceptional circumstances. For purposes of this subdivision, exceptional circumstances exist when, regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe or ongoing consequences, including, but not limited to, potential or actual immigration consequences.**

§ 23. Intentionally omitted.

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

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

1. When a person is serving a sentence for a conviction in this state, whether by trial verdict or guilty plea, under former article two hundred twenty-one of the penal law, and such person's conduct as alleged in the accusatory instrument and/or shown by the guilty plea or trial verdict would not have been a crime under article two hundred twenty-two of the penal law, had such article two hundred twenty-two rather than former article two hundred twenty-one of the penal law been in effect at the time of such conduct, then the chief administrative judge of the state of New York shall, in accordance with this section, automatically vacate, dismiss and expunge such conviction in accordance with section 160.50 of this chapter, and the office of court administration shall immediately notify the state division of criminal justice services, state department of corrections and community supervision and the appropriate local correctional facility which shall immediately effectuate the appropriate relief. Such notification to the division of criminal justice services shall also direct that such agency notify all relevant police and law enforcement agencies of their duty to destroy and/or mark records related to such case in accordance with section 160.50 of this chapter. Nothing in this section shall prevent a person who believes his or her sentence is required by this section to be vacated, dismissed and/or expunged from filing a petition with the court to effectuate all appropriate relief.

2. (a) When a person is serving or has completed serving a sentence for a conviction in this state, whether by trial verdict or guilty plea, under former article two hundred twenty-one of the penal law, and such person's conduct as alleged in the accusatory instrument and/or shown by the guilty plea or trial verdict, or shown by other information: (i) would not have been a crime under article two hundred twenty-two of the

penal law, had such article two hundred twenty-two rather than former article two hundred twenty-one of the penal law been in effect at the time of such conduct; or (ii) under such circumstances such person would have been guilty of a lesser or potentially less onerous offense under such article two hundred twenty-two than such former article two hundred twenty-one of the penal law; then such person may petition the court of conviction pursuant to this article for vacatur of such conviction.

(b) Upon receiving a served and filed motion under paragraph (a) of this subdivision, the court shall presume the movant satisfies the criteria in such paragraph (a) and shall grant the motion to vacate such conviction unless the party opposing the motion proves, by clear and convincing evidence, that the movant does not satisfy the criteria. If the movant satisfies the criteria, the court shall grant the motion to vacate the conviction: (i) if the conviction was by plea of guilty, on grounds that such plea was not knowing, voluntary and intelligent owing to ongoing consequences; and (ii) if the conviction was by verdict or otherwise, on grounds that such conviction and sentence constitutes cruel and unusual punishment under the state constitution owing to such ongoing consequences; and may, if the petition meets the criteria in subparagraph (i) of paragraph (a) of this subdivision, after affording the parties an opportunity to be heard and present evidence, substitute, unless it is not in the interests of justice to do so, a conviction for an appropriate lesser offense under article two hundred twenty-two of the penal law.

(c) In the event of any vacatur and/or substitution pursuant to this subdivision, the office of court administration shall immediately notify the state division of criminal justice services concerning such determination. Such notification to the division of criminal justice services shall also direct that such agency notify all relevant police and law enforcement agencies of their duty to destroy and/or mark records related to such case in accordance with section 160.50 of this chapter or, where conviction for a crime is substituted pursuant to this subdivision, update such agencies' records accordingly.

3. Under no circumstances may substitution under this section result in the imposition of a term of imprisonment or sentencing term, obligation or condition that is in any way either harsher than the original sentence or harsher than the sentence authorized for any substituted lesser offense.

4. (a) If the judge who originally sentenced the movant for such offense is not reasonably available, then the presiding judge for such court shall designate another judge authorized to act in the appropriate jurisdiction to determine the petition or application.

(b) Unless requested by the movant, no hearing is necessary to grant an application filed under subdivision two of this section.

(c) When a felony conviction is vacated pursuant to this section and a lesser offense that is a misdemeanor or violation is substituted for such conviction, such lesser offense shall be considered a misdemeanor or violation, as the case may be, for all purposes. When a misdemeanor conviction is vacated pursuant to this section and a lesser offense that is a violation is substituted for such conviction, such lesser offense shall be considered a violation for all purposes.

(d) Nothing in this section is intended to or shall diminish or abrogate any rights or remedies otherwise available to a defendant, petitioner or applicant. Relief under this section is available notwithstanding that the judgment was for a violation of former sections 221.05, 221.10, 221.15, 221.20, 221.35 or 221.40 of the penal law in

effect prior to the effective date of this paragraph and that the underlying action or proceeding has already been vacated, dismissed and expunged.

(e) Nothing in this and related sections of law is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this section.

(f) The provisions of this section shall be available, used and applied in parallel fashion by the family court and the criminal courts to juvenile delinquency adjudications, adolescent offender adjudications and youthful offender adjudications.

(g) The chief administrator of the courts shall promulgate all necessary rules and make available all necessary forms to enable the filing of the petitions and applications provided in this section no later than sixty days following the effective date of this section. All sentences eligible for automatic vacatur, dismissal and expungement pursuant to subdivision one of this section shall be identified and the required entities notified within one year of the effective date of this section.

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

(c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist as defined in section 220.65 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, operating as a major trafficker as defined in section 220.77 of the penal law, [~~criminal possession of marihuana in the first degree as defined in section 221.30 of the penal law, criminal sale of marihuana in the first degree as defined in section 221.55 of~~

~~the penal law,~~] promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

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

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

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a criminal 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~~] **subdivision** 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~~].

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

13. "Serious offense" shall mean any felony involving the offenses enumerated in the closing paragraph of this subdivision; a criminal solicitation of or a conspiracy to commit or an attempt to commit or a criminal facilitation of a felony involving the offenses enumerated in the closing paragraph of this subdivision, which criminal solicitation, conspiracy, attempt or criminal facilitation itself constitutes a felony

or any offense in any other jurisdiction which if committed in this state would constitute a felony; any offense in any other jurisdiction which if committed in this state would constitute a felony provided that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such: (i) a conviction for which an executive pardon has been issued pursuant to the executive law; (ii) a conviction which has been vacated and replaced by a youthful offender finding pursuant to article seven hundred twenty of the criminal procedure law, or the applicable provisions of law of any other jurisdiction; or (iii) a conviction the records of which have been sealed pursuant to the applicable provisions of the laws of this state or of any other jurisdiction; and (iv) a conviction for which other evidence of successful rehabilitation to remove the disability has been issued.

Felonies involving: assault, aggravated assault and reckless endangerment pursuant to article one hundred twenty; vehicular manslaughter, manslaughter and murder pursuant to article one hundred twenty-five; sex offenses pursuant to article one hundred thirty; unlawful imprisonment, kidnapping or coercion pursuant to article one hundred thirty-five; criminal trespass and burglary pursuant to article one hundred forty; criminal mischief, criminal tampering and tampering with a consumer product pursuant to article one hundred forty-five; arson pursuant to article one hundred fifty; larceny and offenses involving theft pursuant to article one hundred fifty-five; offenses involving computers pursuant to article one hundred fifty-six; robbery pursuant to article one hundred sixty; criminal possession of stolen property pursuant to article one hundred sixty-five; forgery and related offenses pursuant to article one hundred seventy; involving false written statements pursuant to article one hundred seventy-five; commercial bribing and commercial bribe receiving pursuant to article one hundred eighty; criminal impersonation and scheme to defraud pursuant to article one hundred ninety; bribery involving public servants and related offenses pursuant to article two hundred; perjury and related offenses pursuant to article two hundred ten; tampering with a witness, intimidating a victim or witness and tampering with physical evidence pursuant to article two hundred fifteen; criminal possession of a controlled substance pursuant to sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a controlled substance pursuant to sections 220.31, 220.34, 220.39, 220.41, 220.43 and 220.44; criminal sale of [~~marijuana~~] **cannabis** pursuant to sections [~~221.45, 221.50 and 221.55~~] **222.55, 222.60 and 222.65**; riot in the first degree, aggravated harassment in the first degree, criminal nuisance in the first degree and falsely reporting an incident in the second or first degree pursuant to article two hundred forty; and crimes against public safety pursuant to article two hundred sixty-five of the penal law.

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

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

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

(b) three or more violations of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43[~~,~~] **or** 220.77[~~, or 221.55~~] of this chapter, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or

(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.

§ 32. 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,~~] **subdivision two of section 222.50, subdivision two of section 222.55,** 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 similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any

offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

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

When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to a chemical test of one or more of the following: breath, blood[~~,~~] **or** urine[~~, or saliva,~~] for the purpose of determining the alcoholic and/or drug content**, other than cannabis content including but not limited to tetrahydrocannabinol 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:

§ 34. 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**

§ 35. 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 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.

§ 36. Intentionally omitted.

§ 37. Section 490 of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 490. [~~Definitions~~] **Excise tax on medical cannabis**. 1. (a) [~~All definitions of terms applicable to title five-A of article thirty-three~~

~~of the public health law shall apply to this article.~~] For purposes of this article, the terms "medical cannabis," "registered organization," "certified patient," and "designated caregiver" shall have the same definitions as in section three of the cannabis law.

(b) As used in this section, where not otherwise specifically defined and unless a different meaning is clearly required "gross receipt" means the amount received in or by reason of any sale, conditional or otherwise, of medical [~~marihuana~~] cannabis or in or by reason of the furnishing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~] cannabis provided by a registered organization to a certified patient or designated caregiver. Gross receipt is expressed in money, whether paid in cash, credit or property of any kind or nature, and shall be determined without any deduction therefrom on account of the cost of the service sold or the cost of materials, labor or services used or other costs, interest or discount paid, or any other expenses whatsoever. "Amount received" for the purpose of the definition of gross receipt, as the term gross receipt is used throughout this article, means the amount charged for the provision of medical [~~marihuana~~] cannabis.

2. There is hereby imposed an excise tax on the gross receipts from the sale of medical [~~marihuana~~] cannabis by a registered organization to a certified patient or designated caregiver, to be paid by the registered organization, at the rate of seven percent. The tax imposed by this article shall be charged against and be paid by the registered organization and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

3. The commissioner may make, adopt and amend rules, regulations, procedures and forms necessary for the proper administration of this article.

4. Every registered organization that makes sales of medical [~~marihuana~~] cannabis subject to the tax imposed by this article shall, on or before the twentieth date of each month, file with the commissioner a return on forms to be prescribed by the commissioner, showing its receipts from the retail sale of medical [~~marihuana~~] cannabis during the preceding calendar month and the amount of tax due thereon. Such returns shall contain such further information as the commissioner may require. Every registered organization required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due on its retail sales of medical [~~marihuana~~] cannabis for the period covered by such return. If a return is not filed when due, the tax shall be due on the day on which the return is required to be filed.

5. Whenever the commissioner shall determine that any moneys received under the provisions of this article were paid in error, he may cause the same to be refunded, with interest, in accordance with such rules and regulations as he may prescribe, except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter, or if no rate is set, at the rate of six percent per annum, from the date when the tax, penalty or interest to be refunded was paid to a date preceding the date of the refund check by not more than thirty days. Provided, however, that for the purposes of this subdivision, any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. Such moneys received under the provisions of this article which the commissioner shall deter-

mine were paid in error, may be refunded out of funds in the custody of the comptroller to the credit of such taxes provided an application therefor is filed with the commissioner within two years from the time the erroneous payment was made.

6. The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

7. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the medical [~~marihuana~~] **cannabis** trust fund established by section eighty-nine-h of the state finance law.

8. A registered organization that dispenses medical [~~marihuana~~] **cannabis** shall provide to the department information on where the medical [~~marihuana~~] **cannabis** was dispensed and where the medical [~~marihuana~~] **cannabis** was manufactured. A registered organization that obtains [~~marihuana~~] **cannabis** from another registered organization shall obtain from such registered organization information on where the medical [~~marihuana~~] **cannabis** was manufactured.

§ 38. Section 491 of the tax law, as added by chapter 90 of the laws of 2014, subdivision 1 as amended by section 1 of part II of chapter 60 of the laws of 2016, is amended to read as follows:

§ 491. Returns to be secret. 1. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person engaged or retained by such department on an independent contract basis or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the contents or any other information relating to the business of a distributor, owner or other person contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the [~~state, the state department of health~~] **cannabis control board**, or the commissioner in an action or proceeding under the provisions of this chapter or on behalf of the state or the commissioner in any other action or proceeding involving the collection of a tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding relating to the regulation or taxation of medical [~~marihuana~~] **cannabis** on behalf of officers to whom information shall have been supplied as

provided in subdivision two of this section, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the [~~state department of health~~] **cannabis control board**; or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a registered organization or other person under this article; nor to prohibit the delivery to a registered organization, or a duly authorized representative of such registered organization, a certified copy of any return or report filed by such registered organization pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all the registered organizations making sales of, or manufacturing, medical [~~marihuana~~] **cannabis** in a specified county, whether the number of such registered organizations is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may, in his or her discretion, permit the proper officer of any county entitled to receive an allocation, following appropriation by the legislature, pursuant to this article and section eighty-nine-h of the state finance law, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or such representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

2. The commissioner, in his or her discretion and pursuant to such rules and regulations as he or she may adopt, may permit [~~the commissioner of internal revenue of the United States, or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] **cannabis**, or the duly authorized representatives of such [~~commissioner or of any such~~] officers, to inspect returns or reports made pursuant to this article, or may furnish to such [~~commissioner or~~] other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply [~~such commissioner or~~] any such officers or such representatives with information relating to the business of a registered organization making returns or reports hereunder. The commissioner may refuse to supply information pursuant to this subdivision [~~to the commissioner of internal revenue of the United States or~~] to the officers of any other state if the statutes [~~of the United States, or~~] of the state represented by such officers, do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to [~~the commissioner of internal~~

~~revenue of the United States or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] cannabis, or the duly authorized representatives [~~of such commissioner or~~] of any of such officers, unless such [~~commissioner,~~] officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such [~~commissioner,~~] officer or other representatives.

3. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 39. The tax law is amended by adding a new article 20-C to read as follows:

ARTICLE 20-C
TAX ON ADULT-USE CANNABIS PRODUCTS

Section 492. Definitions.
493. Tax on cannabis.
494. Registration and renewal.
495. Returns and payment of tax.
496. Returns to be kept secret.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Cannabis" shall have the same meaning as in section three of the cannabis law. For purposes of this article, cannabis does not include medical cannabis or cannabinoid hemp and hemp extract as defined in section three of the cannabis law.

(b) "Cannabis product" or "adult-use cannabis product" means a cannabis product as defined in section three of the cannabis law. For purposes of this article, under no circumstances shall adult-use cannabis product include medical cannabis or cannabinoid hemp and hemp extract as defined in section three of the cannabis law.

(c) "Person" means every individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(d) "Retail dispensary" means a dispensary licensed to sell adult-use cannabis products pursuant to section seventy-two of the cannabis law.

(e) "Transfer" means to grant, convey, hand over, assign, sell, exchange or barter, in any manner or by any means, with or without consideration.

(f) "Sale" means any transfer of title, possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefor.

§ 493. Tax on cannabis. (a) There is hereby imposed a tax on the sale or transfer of adult-use cannabis products by any person to a retail dispensary at the rate of eighteen percent of the amount charged by such person for adult-use cannabis products, which shall accrue at the time of such sale or transfer. Where the retail dispensary is operated by a person licensed under the cannabis law as a registered organiza-

tion, such tax shall be paid by the retail dispensary at the rate of eighteen percent of the price charged to the retail customer and shall accrue at the time of such sale.

(b) In addition to the taxes imposed by subdivision (a) of this section, there is hereby imposed a tax on the sale or transfer of adult-use cannabis products by any person to a retail dispensary at the rate of one percent of the amount charged by such person for such adult-use cannabis products, which shall accrue at the time of such sale or transfer. The tax imposed by this subdivision shall be in trust for and on account of a city having a population of one million or more, or a county, other than a county wholly within such a city, in which the retail dispensary is located. Where the retail dispensary is operated by a person licensed under the cannabis law as a registered organization, such tax shall be paid by the retail dispensary at the rate of one percent of the price charged to the retail customer.

(c) In addition to the taxes imposed by subdivisions (a) and (b) of this section, there is hereby imposed a tax on the sale or transfer of adult-use cannabis products by any person to a retail dispensary at the rate of three percent of the amount charged by such person for such adult-use cannabis products, which shall accrue at the time of such sale or transfer. The tax imposed by this subdivision shall be in trust for and on account of the town, village, or city in which the retail dispensary is located. Where the retail dispensary is operated by a person licensed under the cannabis law as a registered organization, such tax shall be paid by the retail dispensary at the rate of three percent of the price charged to the retail customer.

(d) It shall be presumed that all adult-use cannabis products within the state are subject to tax until the contrary is established, and the burden of proof that the taxes imposed by subdivisions (a), (b) and (c) of this section have been paid shall be upon the person in possession thereof where such person holds any license under the cannabis law. Every person holding a license under the cannabis law who possesses adult-use cannabis products upon which such taxes have not been paid shall be liable for the payment of such taxes, and the failure of such person to produce to the commissioner or his or her authorized representative upon demand an invoice for any adult-use cannabis products in his or her possession shall be presumptive evidence that the tax thereon has not been paid and that such person is liable for the tax thereon, unless evidence of such invoice or payment is later produced.

(e) Notwithstanding any other provision of law to the contrary, the taxes imposed by article twenty of this chapter shall not apply to any product subject to tax under this article.

§ 494. Registration and renewal. (a) Every person to whom adult-use cannabis products are sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law must file with the commissioner a properly completed application for a certificate of registration before engaging in business. In order to apply for such certificate of registration, such person must first be in possession of a valid license from the office of cannabis management. An application for a certificate of registration must be submitted electronically, on a form prescribed by the commissioner, and must be accompanied by a non-refundable application fee of six hundred dollars. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon such person ceasing to do business as specified in such certificate, or in the event that such business never commenced.

(b) The commissioner shall refuse to issue a certificate of registration to any applicant and shall revoke the certificate of registration of any such person who does not possess a valid license from the office of cannabis management. The commissioner may refuse to issue a certificate of registration to any applicant where such applicant: (1) has a past-due liability as that term is defined in section one hundred seventy-one-v of this chapter; (2) has had a certificate of registration under this article, a license from the office of cannabis management, or any license or registration provided for in this chapter revoked within one year from the date on which such application was filed; (3) has had a certificate of registration under this article, a license from the office of cannabis management, or any license or registration provided for in this chapter suspended where the suspension is in effect on the date the application is filed or ended less than one year from such date; (4) has been convicted of a crime provided for in this chapter within one year from the date on which such application was filed or the certificate was issued as applicable; (5) willfully fails to file a report or return required by this article; (6) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false; or (7) willfully fails to collect or truthfully account for or pay over any tax imposed by this article.

(c) A certificate of registration shall be valid for the period specified thereon, unless earlier suspended or revoked. Upon the expiration of the term stated on a certificate of registration, such certificate shall be null and void.

(d) Every holder of a certificate of registration must notify the commissioner of changes to any of the information stated on the certificate, or of changes to any information contained in the application for the certificate of registration. Such notification must be made on or before the last day of the month in which a change occurs and must be made electronically on a form prescribed by the commissioner.

(e) Every holder of a certificate of registration under this article shall be required to reapply prior to such certificate's expiration, during a reapplication period established by the commissioner. Such reapplication period shall not occur more frequently than every two years. Such reapplication shall be subject to the same requirements and conditions as an initial application, including grounds for refusal and the payment of the application fee.

(f) Any person who is required to obtain a certificate of registration under subdivision (a) of this section who possesses adult-use cannabis products without such certificate shall be subject to a penalty of five hundred dollars for each month or part thereof during which adult-use cannabis products are possessed without such certificate, not to exceed ten thousand dollars in the aggregate.

§ 495. Returns and payment of tax. (a) 1. Every person to whom adult-use cannabis products are sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law shall, on or before the twentieth day of the month, file with the commissioner a return on forms to be prescribed by the commissioner, the total amount of tax due thereon in the preceding calendar month, and the total amount of tax due under subdivisions (a), (b) and (c) of section four hundred ninety-three of this article on its sales to a retail dispensary during the preceding calendar month, along with such other information as the commissioner may require. Every person required to file a return under this section shall, at the time

of filing such return, pay to the commissioner the total amount of tax due for the period covered by such return. If a return is not filed when due, the tax shall be due on the day on which the return is required to be filed.

2. Every person to whom adult-use cannabis products are sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law shall maintain complete and accurate records in such form as the commissioner may require including, but not limited to, such items as the geographic location of every retail dispensary to which such person sold or transferred adult-use cannabis products; and any other record or information required by the commissioner. Such records must be preserved for a period of three years after the filing of the return to which such records relate and must be provided to the commissioner upon request.

(b) The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

(c) 1. All taxes, interest, and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the cannabis revenue fund established by section ninety-nine-ii of the state finance law. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds. The commissioner is authorized and directed to deduct from the registration fees under subdivision (a) of section four hundred ninety-four of this article, before deposit into the cannabis revenue fund designated by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect, and distribute the taxes imposed by this article.

2. Notwithstanding the foregoing, the commissioner shall certify to the comptroller the total amount of tax, penalty and interest received by him or her on account of the tax imposed by subdivisions (b) and (c) of section four hundred ninety-three of this article in trust for and on account of each county and city having a population of one million or more, other than a county wholly within such a city, and the town, village or city in which a retail dispensary is located. On or before the twelfth day of each month, the comptroller, after reserving such fund, shall pay to the appropriate fiscal officer of each such county and city and a designated officer of such town or village or city the taxes, penalties and interest received and certified by the commissioner for the preceding calendar month.

3. In addition to any other penalty provided in this article or otherwise imposed by law: every person to whom adult-use cannabis products are sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law who fails to maintain or make available to the commissioner the records required by this section is subject to a penalty not to exceed five hundred

dollars for the first month or part thereof for which the failure occurs. This penalty may not be imposed more than once for failures for the same monthly period or part thereof. If the commissioner determines that a failure to maintain or make available records in any month was entirely due to reasonable cause and not to willful neglect, the commissioner must remit the penalty for that month.

§ 496. Returns to be kept secret. (a) Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the content or any other information related to the business of the wholesaler contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, the office of cannabis management, or the commissioner in an action or proceeding involving the collection of tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding related to the regulation or taxation of adult-use cannabis products on behalf of officers to whom information shall have been supplied as provided in this section, in any of which events the courts may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the cannabis control board or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by the wholesaler under this article; nor to prohibit the delivery to such person or a duly authorized representative of such person, a certified copy of any return or report filed by such person pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all wholesalers purchasing and selling such products in the state, whether the number of such persons is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may in his or her discretion, permit the proper officer of any county entitled to receive

any distribution of the monies received on account of the tax imposed by subdivisions (b) and (c) of section four hundred ninety-three of this article, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

(b) The commissioner, in his or her discretion, may permit the appropriate officers of any other state that regulates or taxes cannabis or the duly authorized representatives of such commissioner or of any such officers, to inspect returns or reports made pursuant to this article, or may furnish to the commissioner or other officer, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply such commissioner or any such officers or such representatives with information relating to the business of a wholesaler making returns or reports hereunder solely for purposes of tax administration. The commissioner may refuse to supply information pursuant to this subdivision to the officers of any other state if the statutes of the state represented by such officers do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to the appropriate officers of any state that regulates or taxes cannabis, or the duly authorized representatives of such commissioner or of any such officers, unless such commissioner, officer, or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such commissioner, officer or other representatives.

(c) 1. Any officer or employee of the state who willfully violates the provisions of subdivision (a) or (b) of this section shall be dismissed from office and be incapable of holding any public office in the state for a period of five years thereafter.

2. For criminal penalties, see article thirty-seven of this chapter.

§ 40. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 3-b to read as follows:

(3-b) Adult-use cannabis products as defined by article twenty-C of this chapter.

§ 41. Section 12 of chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, is amended to read as follows:

§ 12. This act shall take effect immediately [~~and~~]; provided, however that sections one, three, five, six, seven-a, eight, nine, ten and eleven of this act shall expire and be deemed repealed seven years after such date; provided that the amendments to section 171-a of the tax law made by section seven of this act shall take effect on the same date and in the same manner as section 54 of part A of chapter 59 of the laws of 2014 takes effect and shall not expire and be deemed repealed; and provided, further, that the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section eleven of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.

§ 42. The cannabis control board, in consultation with the division of the budget, the department of taxation and finance, the department of

health, office of addiction services and supports, office of mental health, New York state police and the division of criminal justice services, shall conduct a study of the implementation of this act. Such study shall examine all aspects of this act, including economic and fiscal impacts, the impact on the public health and safety of New York residents, the progress made in achieving social and economic justice goals, and toward eliminating the illegal market for cannabis products in New York. The board shall make recommendations regarding if the changes to level of taxation of adult-use cannabis is appropriate, as well as changes, if any, necessary to improve and protect the public health and safety of New Yorkers. Such study shall be completed two years after the effective date of this act and shall be presented to the governor, the temporary president of the senate and the speaker of the assembly, no later than October 1, 2023.

§ 43. Section 102 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

8. No alcoholic beverage retail licensee shall sell cannabis, as defined in section three of the cannabis law, nor have or possess a license or permit to sell cannabis, on the same premises where alcoholic beverages are sold.

§ 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the general obligations law, as added by chapter 406 of the laws of 2000, are amended to read as follows:

1. "Illegal drug" means any controlled substance [~~or marijuana~~] the possession of which is an offense under the public health law or the penal law.

4. "Grade one violation" means possession of one-quarter ounce or more, but less than four ounces, or distribution of less than one ounce of an illegal drug [~~other than marijuana, or possession of one pound or twenty-five plants or more, but less than four pounds or fifty plants, or distribution of less than one pound of marijuana~~].

5. "Grade two violation" means possession of four ounces or more, but less than eight ounces, or distribution of one ounce or more, but less than two ounces, of an illegal drug [~~other than marijuana, or possession of four pounds or more or fifty plants or distribution of more than one pound but less than ten pounds of marijuana~~].

6. "Grade three violation" means possession of eight ounces or more, but less than sixteen ounces, or distribution of two ounces or more, but less than four ounces, of a specified illegal drug [~~or possession of eight pounds or more or seventy-five plants or more, but less than sixteen pounds or one hundred plants, or distribution of more than five pounds but less than ten pounds of marijuana~~].

7. "Grade four violation" means possession of sixteen ounces or more or distribution of four ounces or more of a specified illegal drug [~~or possession of sixteen pounds or more or one hundred plants or more or distribution of ten pounds or more of marijuana~~].

13. "Drug trafficker" means a person convicted of a class A or class B felony controlled substance [~~or marijuana offense~~] who, in connection with the criminal conduct for which he or she stands convicted, possessed, distributed, sold or conspired to sell a controlled substance [~~or marijuana~~] which, by virtue of its quantity, the person's prominent role in the enterprise responsible for the sale or distribution of such controlled substance and other circumstances related to such criminal conduct indicate that such person's criminal possession, sale or conspiracy to sell such substance was not an isolated occurrence and was part of an ongoing pattern of criminal activity from which such person

derived substantial income or resources and in which such person played a leadership role.

§ 45. Paragraph (g) of subdivision 1 of section 488 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, is amended to read as follows:

(g) "Unlawful use or administration of a controlled substance," which shall mean any administration by a custodian to a service recipient of: a controlled substance as defined by article thirty-three of the public health law, without a prescription; or other medication not approved for any use by the federal food and drug administration**, except for the administration of medical cannabis when such administration is in accordance with article three of the cannabis law**. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by article thirty-three of the public health law, at the work-place or while on duty.

§ 46. Paragraphs (e) and (f) of subdivision 1 of section 490 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, are amended and a new paragraph (g) is added to read as follows:

(e) information regarding individual reportable incidents, incident patterns and trends, and patterns and trends in the reporting and response to reportable incidents is shared, consistent with applicable law, with the justice center, in the form and manner required by the justice center and, for facilities or provider agencies that are not state operated, with the applicable state oversight agency which shall provide such information to the justice center; [~~and~~]

(f) incident review committees are established; provided, however, that the regulations may authorize an exemption from this requirement, when appropriate, based on the size of the facility or provider agency or other relevant factors. Such committees shall be composed of members of the governing body of the facility or provider agency and other persons identified by the director of the facility or provider agency, including some members of the following: direct support staff, licensed health care practitioners, service recipients and representatives of family, consumer and other advocacy organizations, but not the director of the facility or provider agency. Such committee shall meet regularly to: (i) review the timeliness, thoroughness and appropriateness of the facility or provider agency's responses to reportable incidents; (ii) recommend additional opportunities for improvement to the director of the facility or provider agency, if appropriate; (iii) review incident trends and patterns concerning reportable incidents; and (iv) make recommendations to the director of the facility or provider agency to assist in reducing reportable incidents. Members of the committee shall be trained in confidentiality laws and regulations, and shall comply with section seventy-four of the public officers law[~~.~~]**; and**

(g) safe storage, administration, and diversion prevention policies regarding controlled substances and medical cannabis.

§ 47. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

§ 179.00 Criminal diversion of medical [~~marihuana~~] **cannabis**; definitions.

The following definitions are applicable to this article:

1. "Medical [~~marihuana~~] **cannabis**" means medical [~~marihuana~~] **cannabis** as defined in [~~subdivision eight of section thirty-three hundred sixty of the public health law~~] **section three of the cannabis law**.

2. "Certification" means a certification, made under section [~~thirty-three hundred sixty-one of the public health law~~] thirty of the cannabis law.

§ 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limitations.

The provisions of this article shall not apply to:

1. a practitioner authorized to issue a certification who acted in good faith in the lawful course of his or her profession; or

2. a registered organization as that term is defined in [~~subdivision nine of section thirty-three hundred sixty of the public health law~~] section thirty-four of the cannabis law who acted in good faith in the lawful course of the practice of pharmacy; or

3. a person who acted in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition.

§ 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] cannabis in the first degree when he or she is a practitioner, as that term is defined in [~~subdivision twelve of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law, who issues a certification with knowledge of reasonable grounds to know that (i) the recipient has no medical need for it, or (ii) it is for a purpose other than to treat a [~~serious~~] condition as defined in [~~subdivision seven of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the first degree is a class E felony.

§ 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the second degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] cannabis in the second degree when he or she sells, trades, delivers, or otherwise provides medical [~~marihuana~~] cannabis to another with knowledge or reasonable grounds to know that the recipient is not registered under [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the second degree is a class B misdemeanor.

§ 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

A person is guilty of criminal retention of medical [~~marihuana~~] cannabis when, being a certified patient or designated caregiver, as those terms are defined in [~~subdivisions three and five of section thirty-three hundred sixty of the public health law, respectively~~] section three of the cannabis law, he or she knowingly obtains, possesses, stores or maintains an amount of [~~marihuana~~] cannabis in excess of the amount he or she is authorized to possess under the provisions of [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal retention of medical [~~marihuana is a class A misdemeanor~~] cannabis shall be punishable as provided in section 222.25 of this chapter.

§ 48. Section 220.78 of the penal law, as added by chapter 154 of the laws of 2011, is amended to read as follows:

§ 220.78 Witness or victim of drug or alcohol overdose.

1. A person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening

medical emergency shall not be charged or prosecuted for a controlled substance offense under **this** article [~~**two hundred twenty**~~] or a [~~**marihuana**~~] **cannabis** offense under article two hundred [~~**twenty-one**~~] **twenty-two** of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any controlled substance, [~~**marihuana**~~] **cannabis**, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

2. A person who is experiencing a drug or alcohol overdose or other life threatening medical emergency and, in good faith, seeks health care for himself or herself or is the subject of such a good faith request for health care, shall not be charged or prosecuted for a controlled substance offense under this article or a [~~**marihuana**~~] **cannabis** offense under article two hundred [~~**twenty-one**~~] **twenty-two** of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, **or charged or prosecuted for possession of cannabis or concentrated cannabis by a person under the age of twenty-one under section one hundred thirty-two of the cannabis law,** or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any substance, [~~**marihuana**~~] **cannabis**, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

3. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Drug or alcohol overdose" or "overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; provided that a patient's condition shall be deemed to be a drug or alcohol overdose if a prudent layperson, possessing an average knowledge of medicine and health, could reasonably believe that the condition is in fact a drug or alcohol overdose and (except as to death) requires health care.

(b) "Health care" means the professional services provided to a person experiencing a drug or alcohol overdose by a health care professional licensed, registered or certified under title eight of the education law or article thirty of the public health law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services for a person experiencing a drug or alcohol overdose.

4. It shall be an affirmative defense to a criminal sale controlled substance offense under this article or a criminal sale of [~~**marihuana**~~] **cannabis** offense under article two hundred [~~**twenty-one**~~] **twenty-two** of this title, not covered by subdivision one or two of this section, with respect to any controlled substance or [~~**marihuana**~~] **cannabis** which was obtained as a result of such seeking or receiving of health care, that:

(a) the defendant, in good faith, seeks health care for someone or for him or herself who is experiencing a drug or alcohol overdose or other life threatening medical emergency; and

(b) the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under this article.

5. Nothing in this section shall be construed to bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the bar to prosecution or for the affirmative defense; nor with regard to other crimes committed by a person who otherwise qualifies under this section; nor shall anything in this section be construed to bar any seizure pursuant to law, including but not limited to pursuant to section thirty-three hundred eighty-seven of the public health law.

6. The bar to prosecution described in subdivisions one and two of this section shall not apply to the prosecution of a class A-I felony under this article, and the affirmative defense described in subdivision four of this section shall not apply to the prosecution of a class A-I or A-II felony under this article.

§ 49. Subdivision 1 of section 260.20 of the penal law, as amended by chapter 362 of the laws of 1992, is amended as follows:

1. He knowingly permits a child less than eighteen years old to enter or remain in or upon a place, premises or establishment where sexual activity as defined by article one hundred thirty, two hundred thirty or two hundred sixty-three of this [~~chapter~~] part or activity involving controlled substances as defined by article two hundred twenty of this [~~chapter or involving marihuana as defined by article two hundred twenty-one of this chapter~~] part is maintained or conducted, and he knows or has reason to know that such activity is being maintained or conducted; or

§ 50. Section 89-h of the state finance law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 89-h. Medical [~~marihuana~~] cannabis trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "medical [~~marihuana~~] cannabis trust fund."

2. The medical [~~marihuana~~] cannabis trust fund shall consist of all moneys required to be deposited in the medical [~~marihuana~~] cannabis trust fund pursuant to the provisions of section four hundred ninety of the tax law.

3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be kept separate and shall not be commingled with any other moneys in the custody of the commissioner of taxation and finance and the state comptroller.

4. The moneys of the medical [~~marihuana~~] cannabis trust fund, following appropriation by the legislature, shall be allocated upon a certificate of approval of availability by the director of the budget as follows: (a) Twenty-two and five-tenths percent of the monies shall be transferred to the counties in New York state in which the medical [~~marihuana~~] cannabis was manufactured and allocated in proportion to the gross sales originating from medical [~~marihuana~~] cannabis manufactured in each such county; (b) twenty-two and five-tenths percent of the moneys shall be transferred to the counties in New York state in which the medical [~~marihuana~~] cannabis was dispensed and allocated in proportion to the gross sales occurring in each such county; (c) five percent of the monies shall be transferred to the office of [~~alcoholism and substance abuse services~~] addiction services and supports, which shall use that revenue for additional drug abuse prevention, counseling and

treatment services; and (d) five percent of the revenue received by the department shall be transferred to the division of criminal justice services, which shall use that revenue for a program of discretionary grants to state and local law enforcement agencies that demonstrate a need relating to [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law; said grants could be used for personnel costs of state and local law enforcement agencies. For purposes of this subdivision, the city of New York shall be deemed to be a county.

§ 51. The state finance law is amended by adding three new sections 99-ii, 99-jj and 99-kk to read as follows:

§ 99-ii. New York state cannabis revenue fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "New York state cannabis revenue fund".

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

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

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

(b) Reasonable costs incurred by the office of cannabis management and the cannabis control board for implementing, administering, and enforcing the marihuana regulation and taxation act.

(c) Actual and necessary costs incurred by the office of cannabis management and the cannabis control board related to the administration of incubators and other assistance to qualified social and economic equity applicants including low and zero interest loans provided to such applicants pursuant to section sixteen-ee of the urban development corporation act. Such costs shall be paid out of revenues received, including, but not limited to, from special one-time fees paid by registered organizations pursuant to section sixty-three of the cannabis law.

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

(i) Reasonable costs incurred by the office of cannabis management policy to track and report data related to the licensing of cannabis businesses, including the geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of applicants and license holders. The cannabis control board shall publish reports on its findings annually and shall make the reports available to the public.

(ii) Reasonable costs incurred by the department of criminal justice services to track and report data related to any infractions, violations, or criminal convictions that occur under any of the remaining cannabis statutes. The department of criminal justice services

shall publish reports on its findings annually and shall make the reports available to the public.

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

(A) the impact on public health, including health costs associated with cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs;

(B) the impact of treatment for cannabis use disorder and the effectiveness of different treatment programs;

(C) public safety issues related to cannabis use, including, but not limited to studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products;

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

(E) cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses;

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

(G) the economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue;

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

(I) any environmental impacts and hazards related to cannabis production.

(e) Reasonable costs incurred by the state police to expand and enhance the drug recognition expert training program and technologies utilized in the process of maintaining road safety.

4. After the dispersal of moneys pursuant to subdivision three of this section, the remaining moneys in the fund deposited during the prior fiscal year shall be disbursed into the state lottery fund and two additional sub-funds created within the cannabis revenue fund known as the drug treatment and public education fund and the community grants reinvestment fund, as follows:

(a) twenty-five percent shall be deposited in the state lottery fund established by section ninety-two-c of this article; provided that such

moneys shall be distributed to the department of education in accordance with subdivisions two and four of section ninety-two-c of this article and shall not be utilized for the purposes of subdivision three of such section. Monies allocated by this article may enhance, but shall not supplant, existing dedicated funds to the department of education;

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

(c) fifty percent shall be deposited in the community grants reinvestment fund established by section ninety-nine-kk of this article.

§ 99-jj. New York state drug treatment and public education fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "New York state drug treatment public education fund".

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

3. The moneys in such fund shall be expended to the commissioner of the office of addiction services and supports and disbursed, in consultation with the commissioner of the department of health and the commissioner of education for the following purposes:

(a) To develop and implement a youth-focused public health education and prevention campaign, including school-based prevention, early intervention, and health care services and programs to reduce the risk of cannabis and other substance use by school-aged children;

(b) To develop and implement a statewide public health campaign focused on the health effects of cannabis and legal use, including an ongoing education and prevention campaign that educates the general public, including parents, consumers and retailers, on the legal use of cannabis, the importance of preventing youth access, the importance of safe storage and preventing secondhand cannabis smoke exposure, information for pregnant or breastfeeding women, and the overconsumption of edible cannabis products;

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

(d) To evaluate the programs being funded to determine their effectiveness.

4. On or before the first day of February each year, the commissioner of the office of addiction services and supports shall provide a written report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate committee on alcoholism and drug abuse, chair of the assembly alcoholism and drug abuse committee,

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

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

(b) recipients of awards from the fund;

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

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

(e) a summary financial plan for such monies which shall include estimates of all receipts and all disbursements for the current and succeeding fiscal years, along with the actual results from the prior fiscal year.

5. Moneys shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of addiction services and supports.

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

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

3. The fund shall be governed and administered by an executive steering committee of fifteen members, including the chief equity officer of the office of cannabis management, who shall be the chair, a representative from the office of children and family services, the department of labor, the department of health, the division of housing and community renewal, and the office of addiction services and supports appointed by the governor; a representative of the education department appointed by the board of regents; two members appointed by the temporary president of the senate; two members appointed by the speaker of the assembly; one member appointed by the minority leader of the senate; one member appointed by the minority leader of the assembly; one member appointed by the comptroller; and one member appointed by the attorney general. Every effort shall be made to ensure a balanced and diverse committee representing the regions and demographics of the state, which shall have expertise in job placement, homelessness and housing, behavioral health and substance use disorder treatment, and effective rehabilitative treatment for adults and juveniles, and shall include representatives of organizations serving communities impacted by past federal and state drug policies.

4. The moneys in such fund shall be administered by the office of cannabis management and allocated by the executive steering committee to provide grants for qualified community-based nonprofit organizations and approved local government entities for the purpose of reinvesting in communities disproportionately affected by past federal and state drug policies. Such grants shall be used, including but not limited to, to support job placement, job skills services, adult education, mental health treatment, substance use disorder treatment, housing, financial literacy, community banking, nutrition services, services to address adverse childhood experiences, afterschool and child care services, system navigation services, legal services to address barriers to

reentry, including, but not limited to, providing representation and related assistance with expungement, vacatur, substitution and resentencing of marihuana-related convictions, and linkages to medical care, women's health services and other community-based supportive services. The grants from this program may also be used to further support the social and economic equity program created by article four of the cannabis law and as established by the cannabis control board.

5. On or before the first day of February each year, the office of cannabis management shall provide a written report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate committee on children and families, chair of the assembly children and families committee, chair of the senate committee on labor, chair of the assembly labor committee, chair of the senate committee on health, chair of the assembly health committee, chair of the senate committee on education, chair of the assembly education committee, the state comptroller and the public. Such report shall detail how the monies of the fund were utilized during the preceding calendar year, and shall include:

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

(b) recipients of awards from the fund;

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

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

(e) a summary financial plan for such monies which shall include estimates of all receipts and all disbursements for the current and succeeding fiscal years, along with the actual results from the prior fiscal year.

6. Moneys shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the office of cannabis management.

§ 52. Paragraphs (a), (b) and (c) of subdivision 3-a of section 390-b of the social services law, as added by section 9 of part H of chapter 56 of the laws of 2019, are amended to read as follows:

(a) In relation to child day care programs and any enrolled legally-exempt provider, when a clearance conducted pursuant to this section reveals that any existing operator, director, caregiver, or person over the age of eighteen who is not related in any way to all children for whom child care services are or will be provided, that resides in a home where child care is provided in a home setting where the child does not reside has been convicted of a crime other than one set forth in subparagraph (iv) of paragraph (a) of subdivision three of this section, and unless such crime is eligible for expungement pursuant to section 160.50 of the criminal procedure law, the office of children and family services shall conduct a safety assessment of the program and take all appropriate steps to protect the health and safety of the children in the program, and may deny, limit, suspend, revoke or reject such program's license or registration or terminate or reject such program's enrollment, as applicable, unless the office of children and family services, determines in its discretion, that continued operation by the child day care program or enrolled legally-exempt provider will not in any way jeopardize the health, safety or welfare of the children cared for in the program or by the provider.

(b) In relation to child day care programs and any enrolled legally-exempt provider, when a clearance conducted pursuant to this section reveals that any existing employee or volunteer with the potential for

unsupervised contact with children has been convicted of a crime other than one set forth in subparagraph (iv) of paragraph (a) of subdivision three of this section, **and unless such crime is eligible for expungement pursuant to section 160.50 of the criminal procedure law,** the office of children of family services shall conduct a safety assessment of the program and take all appropriate steps to protect the health and safety of the children in the program. The office of children and family services may direct the program or provider to terminate the employee or volunteer based on such a conviction, consistent with article twenty-three-A of the correction law.

(c) (i) In relation to any child day care programs and any enrolled legally-exempt providers, where a clearance conducted pursuant to this section reveals a conviction for a crime other than one set forth in subparagraph (iv) of paragraph (a) of subdivision three of this section, **and unless such crime is eligible for expungement pursuant to section 160.50 of the criminal procedure law,** for any prospective employee or volunteer, the office of children and family services may direct that such person not be hired, as applicable, based on such a conviction, consistent with article twenty-three-A of the correction law.

(ii) In relation to any child day care program and any enrolled legally-exempt provider, when a clearance conducted pursuant to this section reveals a conviction for a crime other than one set forth in subparagraph (iv) of paragraph (a) of subdivision three of this section, **and unless such crime is eligible for expungement pursuant to section 160.50 of the criminal procedure law,** for any prospective caregiver seeking enrollment, or applicant to be a director or operator, the office of children and family services may deny the application or enrollment, consistent with article twenty-three-A of the correction law.

§ 53. Subparagraph 1 of paragraph (e) of subdivision 2 of section 378-a of the social services law, as amended by section 10 of part L of chapter 56 of the laws of 2015, is amended to read as follows:

(1) Notwithstanding any other provision of law to the contrary, an application for certification or approval of a prospective foster parent or prospective adoptive parent shall be denied and, in the event of death or incapacity of a relative guardian, an agreement to provide payments to a prospective successor guardian pursuant to title ten of this article shall not be approved pursuant to subparagraph (ii) of paragraph (b) of subdivision five of section four hundred fifty-eight-b of this article, as applicable, where a criminal history record of the prospective foster parent, prospective adoptive parent or prospective successor guardian, as applicable, reveals a conviction for:

(A) a felony conviction at any time involving: (i) child abuse or neglect; (ii) spousal abuse; (iii) a crime against a child, including child pornography; or (iv) a crime involving violence, including rape, sexual assault, or homicide, other than a crime involving physical assault or battery; or

(B) a felony conviction within the past five years for physical assault, battery, or a drug-related offense**, unless such offense is eligible for expungement pursuant to section 160.50 of the criminal procedure law**; or

§ 54. Paragraph (b) of subdivision 4 of section 132 of the social services law, as added by section 23 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

(b) When the screening process indicates that there is reason to believe that an applicant or recipient is abusing or dependent on alcohol or drugs, the social services district shall require a formal alco-

hol or substance abuse assessment, which may include drug testing, to be performed by an alcohol and/or substance abuse professional credentialed by the office of [~~alcoholism and substance abuse services~~] addiction services and supports. Provided however, if the applicant or recipient tests positive for the presence of cannabis, the positive result alone shall not be sufficient to establish a dependence for purposes of requiring an individual to participate in a treatment program pursuant to paragraph (c) of this subdivision. The assessment may be performed directly by the district or pursuant to contract with the district.

§ 55. Subdivision 6 of section 422 of the social services law, as amended by section 7 of part D of chapter 501 of the laws of 2012, is amended to read as follows:

6. In all other cases, the record of the report to the statewide central register shall be expunged ten years after the eighteenth birthday of the youngest child named in the report. In the case of a child in residential care the record of the report to the statewide central register shall be expunged ten years after the reported child's eighteenth birthday. In any case and at any time, the commissioner of the office of children and family services may amend any record upon good cause shown and notice to the subjects of the report and other persons named in the report. Provided however, any report indicated for maltreatment based solely on the purchase, possession or consumption of cannabis, without a showing that the child's physical, mental or emotional condition was impaired or was in imminent danger of becoming impaired established by a fair preponderance of the evidence shall immediately be sealed upon a request pursuant to subdivision eight of this section or section four hundred twenty-four-a of this title.

§ 56. Intentionally omitted.

§ 57. Subdivision (a) of section 712 of the family court act, as amended by section 1 of part K of chapter 56 of the laws of 2019, is amended to read as follows:

(a) "Person in need of supervision". A person less than eighteen years of age: (i) who does not attend school in accordance with the provisions of part one of article sixty-five of the education law; (ii) who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority; (iii) who violates the provisions of[~~: (1) section 221.05; or (2)~~] section 230.00 of the penal law; (iv) or who appears to be a sexually exploited child as defined in paragraph (a), (c) or (d) of subdivision one of section four hundred forty-seven-a of the social services law, but only if the child consents to the filing of a petition under this article.

§ 58. Paragraph (iii) of subdivision (a) of section 1046 of the family court act, as amended by chapter 984 of the laws of 1981, is amended to read as follows:

(iii) proof that a person repeatedly misuses a drug or drugs or alcoholic beverages, to the extent that it has or would ordinarily have the effect of producing in the user thereof a substantial state of stupor, unconsciousness, intoxication, hallucination, disorientation, or incompetence, or a substantial impairment of judgment, or a substantial manifestation of irrationality, shall be prima facie evidence that a child of or who is the legal responsibility of such person is a neglected child except that such drug, or alcoholic beverage misuse shall not be prima facie evidence of neglect when such person is voluntarily and regularly participating in a recognized rehabilitative program. Provided however, the sole fact that an individual consumes

cannabis, without a separate finding that the child's physical mental or emotional condition was impaired or is in imminent danger of becoming impaired established by a fair preponderance of the evidence shall not be sufficient to establish prima facie evidence of neglect; and

§ 59. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-ee to read as follows:

§ 16-ee. Loans to social and economic equity applicants. The corporation is authorized and directed, on the recommendation of the state cannabis control board, to provide low interest or zero-interest loans to qualified social and economic equity applicants as provided for in article four of the cannabis law.

§ 60. The division of state police shall, subject to available appropriations, increase the number of trained and certified drug recognition experts within the state, and provide increased drug recognition awareness training under its drug recognition program. The department of health shall, subject to available appropriations, review available technologies approved for utilization in the recognition of drug impairment by operators of motor vehicles, with a focus on specific technology to recognize acute impairment as compared to habitual cannabis usage and submit a report on such technologies to the governor and the legislature by March 1, 2022.

§ 61. The commissioner of education shall, subject to available appropriations, establish a grant program to provide awards to school districts and boards of cooperative educational services for the purpose of establishing school-based programs for initiatives such as anti-vaping programs, drug prevention and awareness programs, the use of liquid cannabis in vaping products, and the over-consumption of edible products that contain cannabis. Provided that such grants shall be awarded by the commissioner of education to applicants based on factors including but not limited to: (A) community and parental engagement; (B) the applicant's program design to meet the specific needs of students; and (C) proposal quality. Provided further, that such funds shall only be used to supplement, and not supplant, current local expenditures of federal, state or local funds. Provided further, that no district or board of cooperative educational services shall receive a grant in excess of the total actual grant expenditures incurred by the school district or board of cooperative educational services in the current school year, as approved by the commissioner of education.

§ 62. The commissioner of the office of addiction services and supports, in consultation with the commissioner of health and the commissioner of education, shall, subject to available appropriations, immediately to the extent possible execute the activities described in subdivision 3 of section 99-jj of the state finance law, as added by section fifty-one of this act.

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

§ 64. This act shall take effect immediately; provided, however, that sections six and six-a of this act shall take effect six months after the full cannabis control board created by article two of the cannabis law has been appointed and provided that the governor shall notify the legislative bill drafting commission upon such full appointment in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furth-

erance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law; provided, further that the expungement of marihuana convictions under section 160.50 of the criminal procedure law, added by the amendment in section seventeen of this act, shall occur promptly and in any event no later than one year after the effective date of this act; and provided, further, that sections thirty-nine and forty of this act shall take effect April 1, 2022, and shall apply on and after such date to the sale or transfer of adult-use cannabis products to a retail dispensary; provided, further, that the amendments to article 179 of the penal law made by section forty-seven of this act shall not affect the repeal of such article and shall be deemed to be repealed therewith; provided, further, that the amendments to section 89-h of the state finance law made by section fifty of this act shall not affect the repeal of such section and shall be deemed repealed therewith.