

STATE OF NEW YORK

854--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KRUEGER, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BRISPORT, BROUK, COMRIE, COONEY, GIANARIS, HINCHEY, 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 labor law, the family court act, 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 amend chapter 174 of the laws of 1968 constituting the urban development corporation act, in relation to loans to social and economic equity applicants, providing increased drug recognition awareness and

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

LBD02565-04-1

Advanced Roadside Impaired Driver Enforcement training, directing a study designed to evaluate methodologies and technologies for the detection of cannabis-impaired driving, providing for the transfer of employees and functions from the department of health to the office of cannabis management; 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; and to repeal certain provisions of the penal law relating to making conforming changes

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

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

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

5 CHAPTER 7-A OF THE CONSOLIDATED LAWS
6 CANNABIS LAW

7 ARTICLE 1
8 SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT;
9 DEFINITIONS

10 Section 1. Short title.

11 2. Legislative findings and intent.

12 3. Definitions.

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

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

26 The intent of this act is to regulate, control, and tax marihuana,
27 heretofore known as cannabis, generate significant new revenue, make
28 substantial investments in communities and people most impacted by
29 cannabis criminalization to address the collateral consequences of such
30 criminalization, prevent access to cannabis by those under the age of
31 twenty-one years, reduce the illegal drug market and reduce violent
32 crime, reduce participation of otherwise law-abiding citizens in the
33 illicit market, end the racially disparate impact of existing cannabis
34 laws, create new industries, protect the environment, improve the
35 state's resiliency to climate change, protect the public health, safety
36 and welfare of the people of the state, increase employment and
37 strengthen New York's agriculture sector.

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

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

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

18 1. "Applicant" unless otherwise specified in this chapter, shall mean
19 a person applying for any cannabis, medical cannabis or cannabinoid hemp
20 license or permit issued by the New York state cannabis control board
21 pursuant to this chapter that: has a significant presence in New York
22 state, either individually or by having a principal corporate location
23 in the state; is incorporated or otherwise organized under the laws of
24 this state; or a majority of the ownership are residents of this state.
25 For the purposes of this subdivision, "person" means an individual,
26 institution, corporation, government or governmental subdivision or
27 agency, business trust, estate, trust, partnership or association, or
28 any other legal entity.

29 2. "Cannabinoid" means the phytocannabinoids found in hemp and does
30 not include synthetic cannabinoids as that term is defined in subdivi-
31 sion (g) of schedule I of section thirty-three hundred six of the public
32 health law.

33 3. "Cannabinoid hemp" means any hemp and any product processed or
34 derived from hemp, that is used for human consumption provided that when
35 such product is packaged or offered for retail sale to a consumer, it
36 shall not have a concentration of more than three tenths of a percent
37 delta-9 tetrahydrocannabinol.

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

42 5. "Cannabis" means all parts of the plant of the genus Cannabis,
43 whether growing or not; the seeds thereof; the resin extracted from any
44 part of the plant; and every compound, manufacture, salt, derivative,
45 mixture, or preparation of the plant, its seeds or resin. It does not
46 include the mature stalks of the plant, fiber produced from the stalks,
47 oil or cake made from the seeds of the plant, any other compound, manu-
48 facture, salt, derivative, mixture, or preparation of the mature stalks
49 (except the resin extracted therefrom), fiber, oil, or cake, or the
50 sterilized seed of the plant which is incapable of germination. It does
51 not include hemp, cannabinoid hemp or hemp extract as defined by this
52 section or any drug products approved by the federal Food and Drug
53 Administration.

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

1 7. "Cannabis control board" or "board" means the New York state canna-
2 bis control board created pursuant to article two of this chapter.

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

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

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

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

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

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

22 14. "Certified medical use" includes the acquisition, cultivation,
23 manufacture, delivery, harvest, possession, preparation, transfer,
24 transportation, or use of medical cannabis for a certified patient, or
25 the acquisition, administration, cultivation, manufacture, delivery,
26 harvest, possession, preparation, transfer, or transportation of medical
27 cannabis by a designated caregiver or designated caregiver facility, or
28 paraphernalia relating to the administration of cannabis, including
29 whole cannabis flower, to treat or alleviate a certified patient's
30 medical condition or symptoms associated with the patient's medical
31 condition.

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

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

37 17. "Concentrated cannabis" means: (a) the separated resin, whether
38 crude or purified, obtained from cannabis; or (b) a material, prepara-
39 tion, mixture, compound or other substance which contains more than
40 three percent by weight or by volume of total THC, as defined in this
41 section.

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

53 19. "Cultivation" means growing, cloning, harvesting, drying, curing,
54 grading, and trimming of cannabis plants for sale to certain other cate-
55 gories of cannabis license- and permit-holders.

1 20. "Delivery" means the direct delivery of cannabis products by a
2 retail licensee, microbusiness licensee, or delivery licensee to a
3 cannabis consumer.

4 21. "Designated caregiver facility" means a facility that registers
5 with the office to assist one or more certified patients with the acqui-
6 sition, possession, delivery, transportation or administration of
7 medical cannabis and is a: general hospital or residential health care
8 facility operating pursuant to article twenty-eight of the public health
9 law; an adult care facility operating pursuant to title two of article
10 seven of the social services law; a community mental health residence
11 established pursuant to section 41.44 of the mental hygiene law; a
12 hospital operating pursuant to section 7.17 of the mental hygiene law; a
13 mental hygiene facility operating pursuant to article thirty-one of the
14 mental hygiene law; an inpatient or residential treatment program certi-
15 fied pursuant to article thirty-two of the mental hygiene law; a resi-
16 dential facility for the care and treatment of persons with develop-
17 mental disabilities operating pursuant to article sixteen of the mental
18 hygiene law; a residential treatment facility for children and youth
19 operating pursuant to article thirty-one of the mental hygiene law; a
20 private or public school; research institution with an internal review
21 board; or any other facility as determined by the board in regulation.

22 22. "Designated caregiver" means an individual designated by a certi-
23 fied patient in a registry application. A certified patient may desig-
24 nate up to five designated caregivers not counting designated caregiver
25 facilities or designated caregiver facilities' employees.

26 23. "Designated caregiver facility employee" means an employee of a
27 designated caregiver facility.

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

31 25. "Executive director" means the executive director of the office of
32 cannabis management.

33 26. "Form of medical cannabis" means characteristics of the medical
34 cannabis recommended or limited for a particular certified patient,
35 including the method of consumption and any particular strain, variety,
36 and quantity or percentage of cannabis or particular active ingredient,
37 or whole cannabis flower.

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

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

55 29. "Labor peace agreement" means an agreement between an entity and a
56 labor organization that, at a minimum, protects the state's proprietary

1 interests by prohibiting labor organizations and members from engaging
2 in picketing, work stoppages, boycotts, and any other economic interfer-
3 ence with the entity.

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

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

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

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

17 34. "Microbusiness" means a licensee that may act as a cannabis
18 producer for the cultivation of cannabis, a cannabis processor, a canna-
19 bis distributor and a cannabis retailer under this article; provided
20 such licensee complies with all requirements imposed by this article on
21 licensed producers, processors, distributors and retailers to the extent
22 the licensee engages in such activities.

23 35. "Nursery" means a licensee that produces only clones, immature
24 plants, seeds, and other agricultural products used specifically for the
25 planting, propagation, and cultivation of cannabis by licensed adult use
26 cannabis cultivators, microbusinesses, cooperatives and registered
27 organizations.

28 36. "Office" or "office of cannabis management" means the New York
29 state office of cannabis management.

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

32 38. "Package" means any container or receptacle used for holding
33 cannabis or cannabis products.

34 39. "Permit" means a permit issued pursuant to this chapter.

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

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

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

50 43. "Registered organization" means an organization registered under
51 article three of this chapter.

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

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

46. "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.

47. "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.

48. "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.

49. "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.

50. "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.

51. "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.

52. "THC" means Delta-9-tetrahydrocannabinol; Delta-8-tetrahydrocannabinol; Delta-10-tetrahydrocannabinol and the optical isomer of such substances.

53. "Total THC" means the sum of the percentage by weight or volume measurement of tetrahydrocannabinolic acid multiplied by 0.877, plus, the percentage by weight or volume measurement of THC.

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.

19. Public health and education campaign.

20. Uniform policies and best practices.

§ 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.

2. Appointments. In addition to the chairperson, the governor shall have two direct appointments to the board, and the temporary president of the senate and the speaker of the assembly shall each have one direct appointment to the board. Appointments shall be for a term of three years each and should, to the extent possible, 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, except for the chairperson, 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. The chairperson 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 their official duties, unless otherwise provided by the legislature. 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

1 confirm the governor's successor nomination within the additional ninety
2 days, the board member designated as acting chairperson shall no longer
3 be able to serve as acting chairperson and the governor is prohibited
4 from extending the powers of that acting chairperson or from designating
5 another board member to serve as acting chairperson; and

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

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

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

19 The board shall establish appropriate procedures to ensure that hear-
20 ing officers are shielded from ex parte communications with alleged
21 violators and their attorneys and from other employees of the office of
22 cannabis management and shall take such other steps as it shall deem
23 necessary and proper to shield its judicial processes from unwarranted
24 and inappropriate communications and attempts to influence.

25 7. Disqualification of members of the board and employees of the
26 office of cannabis management. No member of the board or any officer,
27 deputy, assistant, inspector or employee or spouse or minor child there-
28 of shall have any interest, direct or indirect, either proprietary or by
29 means of any loan, mortgage or lien, or in any other manner, in or on
30 any premises where cannabis is manufactured or sold; nor shall they have
31 any interest, direct or indirect, in any business wholly or partially
32 devoted to the cultivation, manufacture, distribution, sale, transporta-
33 tion or storage of cannabis, or own any stock in any corporation which
34 has any interest, proprietary or otherwise, direct or indirect, in any
35 premises where cannabis or hemp extract is cultivated or manufactured,
36 distributed, or sold, or in any business wholly or partially devoted to
37 the cultivation, manufacture, distribution, sale, transportation or
38 storage of cannabis or hemp extract or receive any commission or profit
39 whatsoever, direct or indirect, from any person applying for or receiv-
40 ing any license or permit provided for in this chapter, or hold any
41 other public office in the state or in any political subdivision except
42 upon the written permission of the board, such member of the board or
43 office of cannabis management or officer, deputy, assistant, inspector
44 or employee thereof may hold the public office of notary public or
45 member of a community board of education in the city school district of
46 the city of New York. Anyone who violates any of the provisions of this
47 section shall be removed.

48 § 8. Establishment of an office of cannabis management. There is here-
49 by established, within the division of alcoholic beverage control, an
50 independent office of cannabis management, which shall have exclusive
51 jurisdiction to exercise the powers and duties provided by this chapter.
52 The office shall exercise its authority by and through an executive
53 director.

54 § 9. Executive director. The office shall exercise its authority,
55 other than powers and duties specifically granted to the board, by and
56 through an executive director nominated by the governor and with the

1 advice and consent of the senate. The executive director shall serve
2 for a term of three years and once confirmed, may only be removed for
3 good cause with appropriate notice. The executive director of the state
4 office of cannabis management shall receive an annual salary not to
5 exceed an amount appropriated therefor by the legislature and his or her
6 expenses actually and necessarily incurred in the performance of his or
7 her official duties, unless otherwise provided by the legislature.

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

11 1. Discretion to issue or refuse to issue any registration, license or
12 permit provided for in this chapter, as follows: the chairperson, after
13 receiving a recommendation and relevant application information from the
14 office and providing such information to all board members, shall issue
15 a preliminary determination on whether the license, registration or
16 permit shall be granted, denied, or held for further action. Within
17 fourteen days of the chairperson's preliminary determination, any board
18 member may object to the chairperson's preliminary determination, or
19 request the matter be brought before the full board for consideration.
20 Any preliminary determination by the chairperson shall take effect four-
21 teen days after it has been issued by the chairperson, provided that no
22 board member objects or requests the matter be considered by the full
23 board, as adopted by the board through resolution.

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

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

36 4. To fix by rule and regulation the standards and requirements of
37 cultivation, processing, packaging, marketing, and sale of medical
38 cannabis, adult-use cannabis and cannabis product, and cannabinoid hemp
39 and hemp extract, including but not limited to, the ability to regulate
40 excipients, and the types, forms, and concentration of products which
41 may be manufactured and/or processed, in order to ensure the health and
42 safety of the public and the use of proper ingredients and methods in
43 the manufacture of all medical, adult-use, cannabinoid hemp and hemp
44 extract to be sold or consumed in the state and to ensure that products
45 are not packaged, marketed, or otherwise sold in a way which targets
46 minors or promotes increased use or cannabis use disorders.

47 5. To limit or prohibit, at any time of public emergency and without
48 previous notice or advertisement, the cultivation, processing, distrib-
49 ution or sale of any or all cannabis products, medical cannabis or
50 cannabinoid hemp and hemp extract, for and during the period of such
51 emergency.

52 6. To hold hearings, subpoena witnesses, compel their attendance,
53 administer oaths, to examine any person under oath and in connection
54 therewith to require the production of any books or records relative to
55 the inquiry. A subpoena issued under this section shall be regulated by
56 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, including the chief equity officer, and confidential secretaries to board members 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. The executive director shall appoint a deputy director for health and safety who shall be a licensed health care practitioner within the state and who shall oversee all clinical aspects of the office.

8. To inspect or provide authorization for the inspection at any time of any premises where medical cannabis, adult-use cannabis or cannabimimetic 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 office of cannabis management and/or 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 insti-

1 tuted and determined. In addition, the board may be directed to order
2 the administrative seizure of product, issue a stop order, or take any
3 other action necessary to effectuate and enforce the policy and purpose
4 of this chapter.

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

7 17. To draft and provide an annual report on the effectiveness of this
8 chapter. The annual report shall be prepared, in consultation with the
9 division of the budget, the urban development corporation, the depart-
10 ment of taxation and finance, the department of health, department of
11 agriculture and markets, office of addiction services and supports,
12 office of mental health, New York state police, department of motor
13 vehicles and the division of criminal justice services. The report
14 shall provide, but not be limited to, the following information:

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

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

23 (c) specific programs and progress made by the cannabis control board
24 and the office of cannabis management in achieving the goals of the
25 social and economic equity plan, and other social justice goals includ-
26 ing, but not limited to, restorative justice, minority- and women-owned
27 businesses, distressed farmers and service disabled veterans;

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

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

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

36 (g) any other information or data deemed significant; and

37 (h) the board shall make recommendations regarding the appropriate
38 level of taxation of adult-use cannabis, as well as changes necessary
39 to: improve registration, licensing and permitting; promoting and
40 encouraging social and economic equity applicants; improve and protect
41 the public health and safety of New Yorkers; improve access and avail-
42 ability for substance abuse treatment programs; and any other recommen-
43 dations deemed necessary and appropriate. Such report shall be published
44 on the office's website and presented to the governor, the majority
45 leader of the senate and the speaker of the assembly, no later than
46 January first, two thousand twenty-three and annually thereafter.

47 18. When an administrative decision is appealed to the board by an
48 applicant, registered organization, licensee or permittee, issue a final
49 determination of the office.

50 19. Approve the opening of new license application periods, and when
51 new or additional licenses are made available pursuant to this chapter,
52 provided, however, that the initial adult-use cannabis retail dispensary
53 license application period shall be opened for all applicants at the
54 same time.

55 20. Approve any price quotas or price controls set by the executive
56 director as provided by this chapter.

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

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

23. With the exception of promulgating rules and regulations, the board shall have the power to delegate any functions, powers and duties as provided for in this section to the executive director of the office of cannabis management. Any such delegation shall be through a resolution voted on and approved by the board members.

24. The board shall, two years after the first retail sale pursuant to this chapter, review the impact of licenses issued pursuant to article four of this chapter with substantial market share for any category of licensure, to determine if such licensees are impairing the achievement of the goals of inclusion of social equity licensees, fairness for small businesses and distressed farmers, adequate supplies of cannabis and prevention of dominant marketplace participation in the cannabis industry. The board may modify the terms of the licensee's license consistent with the determination and to better achieve those goals. Any such modification may be appealed by the licensee for a formal hearing as provided in section seventeen of this article. For any licensee such review shall include violations of New York state labor law and labor peace agreements. Further, an existing collective bargaining agreement shall not be infringed or voided by any licensee who after such review suffers from a reduction in market share.

§ 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, or delegated by, the cannabis control board.

2. To keep records in such form as they 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. 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 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.

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

12. To issue guidance and industry advisories.

§ 12. Chief equity officer. The board, by an affirmative vote of at least four members, shall appoint a chief equity officer. 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 board, 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, and the board shall provide such report to the legislature.

§ 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 and the chief equity officer, 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;

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

3 (c) the books and records to be created and maintained by all regis-
4 tered organizations, licensees, and permittees, including the reports to
5 be made thereon to the office, and inspection of any and all books and
6 records maintained by any registered organization, licensee, or permit-
7 tee and on the premises of any registered organization, licensee, or
8 permittee;

9 (d) methods of producing, processing, and packaging cannabis, medical
10 cannabis, cannabis-infused products, concentrated cannabis, and cannabi-
11 noid hemp and hemp extract; conditions of sanitation, and standards of
12 ingredients, quality, and identity of cannabis products cultivated,
13 processed, packaged, or sold by any registered organizations and licen-
14 sees;

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

20 (f) hearing procedures and additional causes for cancellation, suspen-
21 sion, revocation, and/or civil penalties against any person registered,
22 licensed, or permitted by the board; and

23 (g) the circumstances, manner and process by which an applicant,
24 registered organization, licensee, or permittee, may apply to change or
25 alter its previously submitted or approved owners, managers, members,
26 directors, financiers, or interest holders.

27 3. The board shall promulgate rules and regulations that are designed
28 to:

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

32 (b) prevent the revenue from the sale of cannabis from going to crimi-
33 nal enterprises;

34 (c) prevent the diversion and inversion of cannabis from this state to
35 other states and from other states into this state, insofar as cannabis
36 remains federally prohibited;

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

40 (e) inform the public about the dangers of driving while impaired and
41 the public health consequences associated with the use of cannabis;

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

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

45 (h) establish application, licensing, and permitting processes which
46 ensure all material owners and interest holders are disclosed and that
47 officials or other individuals with control over the approval of an
48 application, permit, or license do not themselves have any interest in
49 an application, license, or permit.

50 4. The board, in consultation with the department of agriculture and
51 markets and the department of environmental conservation, shall promul-
52 gate necessary rules and regulations governing the safe production of
53 cannabis, including environmental and energy standards and restrictions
54 on the use of pesticides and best practices for water and energy conser-
55 vation.

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

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

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

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

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

33 6. The board shall have the authority to promulgate regulations
34 governing the appropriate use and licensure of the manufacturing of
35 cannabinoids, or other compounds contained within the cannabis plant,
36 through any method other than planting, growing, cloning, harvesting, or
37 other traditional means of plant agriculture.

38 § 14. State cannabis advisory board. 1. The state cannabis advisory
39 board or "advisory board" is established within the office of cannabis
40 management and directed to work in collaboration with the cannabis
41 control board and the executive director to advise and issue recommenda-
42 tions on the use of medical cannabis, adult-use cannabis and cannabinoid
43 hemp and hemp extract in the state of New York, and shall govern and
44 administer the New York state community grants reinvestment fund pursu-
45 ant to section 99-kk of the state finance law.

46 2. The state cannabis advisory board shall consist of thirteen voting
47 appointed members, along with a representative from the department of
48 environmental conservation, the department of agriculture and markets,
49 the office of children and family services, the department of labor, the
50 department of health, the division of housing and community renewal, the
51 office of addiction services and supports, and the department of educa-
52 tion, serving as non-voting ex-officio members. The governor shall have
53 seven appointments, the temporary president of the senate and the speak-
54 er of the assembly shall each have three appointments to the board. The
55 members shall be appointed to each serve three year terms and in the
56 event of a vacancy, the vacancy shall be filled in the manner of the

1 original appointment for the remainder of the term. The appointed
2 members and representatives shall receive no compensation for their
3 services but shall be allowed their actual and necessary expenses
4 incurred in the performance of their duties as board members.

5 3. Advisory board members shall have statewide geographic represen-
6 tation that is balanced and diverse in its composition. Appointed
7 members shall have an expertise in public and behavioral health,
8 substance use disorder treatment, effective rehabilitative treatment for
9 adults and juveniles, homelessness and housing, economic development,
10 environmental conservation, job training and placement, criminal
11 justice, and drug policy. Further, the advisory board shall include
12 residents from communities most impacted by cannabis prohibition, people
13 with prior drug convictions, the formerly incarcerated, and represen-
14 tatives from the farming industry, cannabis industry, and organizations
15 serving communities impacted by past federal and state drug policies.

16 4. The chairperson of the advisory board and the vice chairperson
17 shall be elected from among the members of the advisory board by the
18 members of such advisory board. The vice chairperson shall represent the
19 advisory board in the absence of the chairperson at all official advi-
20 sory board functions.

21 5. The advisory board shall make recommendations to the cannabis
22 control board, the office and the legislature on cannabis and hemp
23 cultivation, processing, distribution, transport, social and economic
24 equity in the cannabis and hemp industries, criminal justice, public
25 health and safety concerns, law enforcement related to cannabis and
26 cannabis products, and on the testing and sale of cannabis and cannabis
27 products.

28 6. The advisory board shall meet as frequently as its business may
29 require. The advisory board shall enact and from time to time may amend
30 bylaws in relation to its meetings and the transaction of its business.
31 A majority of the total number of voting members which the board would
32 have were there no vacancies, shall constitute a quorum and shall be
33 required for the board to conduct business. All meetings of the advisory
34 board shall be conducted in accordance with the provisions of article
35 seven of the public officers law.

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

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

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

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

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

54 § 16. Violations of cannabis laws or regulations; penalties and
55 injunctions. 1. Any person who violates, disobeys or disregards any term
56 or provision of this chapter or of any lawful notice, order or regu-

1 lation pursuant thereto for which a civil or criminal penalty is not
2 otherwise expressly prescribed by law, shall be liable to the people of
3 the state for a civil penalty of not to exceed five thousand dollars for
4 every such violation.

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

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

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

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

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

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

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

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

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

54 6. Following a hearing, the board may make appropriate determinations
55 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 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.

§ 19. Public health and education campaign. The office, in consultation with the commissioners of the department of health, office of addiction services and supports, and office of mental health, shall develop and implement a comprehensive public health monitoring, surveillance and education campaign regarding the legalization of adult-use cannabis and the impact of cannabis use on public health and safety. The public health and education campaign shall also include general education to the public about the cannabis law.

§ 20. Establish uniform policies and best practices. The office shall engage in activities with other states, territories, or jurisdictions in order to coordinate and establish uniform policies and best practices in cannabis regulation. These activities shall prioritize coordination with neighboring and regional states, and may include, but not be limited to, establishing working groups related to laboratory testing, product safety, taxation, road safety, compliance and adherence with federal policies which promote or facilitate cannabis research, commerce and/or regulation, and any other issues identified by the executive director.

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.
45. Pricing.

§ 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 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 four 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

1 pursuant to a certification shall be in compliance with any recommenda-
2 tion or limitation by the practitioner as to the form or forms of
3 medical cannabis or dosage for the certified patient in the certif-
4 ication;

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

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

12 § 32. Registry identification cards. 1. Upon approval of the certif-
13 ication, the office shall issue registry identification cards for certi-
14 fied patients and designated caregivers. A registry identification card
15 shall expire as provided in this article or as otherwise provided in
16 this section. The office shall begin issuing registry identification
17 cards as soon as practicable after the certifications required by this
18 chapter are granted. The office may specify a form for a registry appli-
19 cation, in which case the office shall provide the form on request,
20 reproductions of the form may be used, and the form shall be available
21 for downloading from the board's or office's website.

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

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

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

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

30 (iii) the date of the certification;

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (e) any other requirements determined by the board.

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

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

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

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

20 5. No person may be a designated caregiver for more than four certi-
21 fied patients at one time; provided, however, that this limitation shall
22 not apply to a designated caregiver facility, or cannabis research
23 license holder as defined by this chapter.

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

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

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

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

43 10. A registry identification card shall:

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

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

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

51 (d) contain a photograph of the individual to whom the registry iden-
52 tification card is being issued, which shall be obtained by the office
53 in a manner specified by the board in regulations; provided, however,
54 that if the office requires certified patients to submit photographs for
55 this purpose, there shall be a reasonable accommodation of certified

1 patients who are confined to their homes due to their medical conditions
2 and may therefore have difficulty procuring photographs;

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

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

7 (g) any other requirements determined by the board.

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

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

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

26 14. The board shall verify to law enforcement personnel in an appro-
27 priate case whether a registry identification card is valid and any
28 other relevant information necessary to protect patients' rights to
29 medical cannabis by confirming compliance with this article.

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

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

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

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

47 (b) operating certificate or license number where appropriate;

48 (c) name, title, and signature of an authorized facility represen-
49 tative;

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

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

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

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

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

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

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

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

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

22 2. The acquiring, possession, manufacture, sale, delivery, transport-
23 ing, distributing or dispensing of medical cannabis by a registered
24 organization under this article in accordance with its registration
25 under this article or a renewal thereof shall be lawful under this chap-
26 ter.

27 3. Each registered organization shall contract with an independent
28 laboratory permitted by the board to test the medical cannabis produced
29 by the registered organization. The board shall approve the laboratories
30 used by the registered organization, including sampling and testing
31 protocols and standards used by the laboratories, and may require that
32 the registered organization use a particular testing laboratory. The
33 board is authorized to issue regulations requiring the laboratory to
34 perform certain tests and services.

35 4. (a) A registered organization may lawfully, in good faith, sell,
36 deliver, distribute or dispense medical cannabis to a certified patient
37 or designated caregiver upon presentation to the registered organization
38 of a valid registry identification card for that certified patient or
39 designated caregiver. When presented with the registry identification
40 card, the registered organization shall provide to the certified patient
41 or designated caregiver a receipt, which shall state: the name, address,
42 and registry identification number of the registered organization; the
43 name and registry identification number of the certified patient and the
44 designated caregiver, if any; the date the cannabis was sold; any recom-
45 mendation or limitation by the practitioner as to the form or forms of
46 medical cannabis or dosage for the certified patient; and the form and
47 the quantity of medical cannabis sold. The registered organization shall
48 retain a copy of the registry identification card and the receipt for
49 six years and shall make such records available to the office.

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

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

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

12 (c) Medical cannabis dispensed to a certified patient or designated
13 caregiver by a registered organization shall conform to any recommenda-
14 tion or limitation by the practitioner as to the form or forms of
15 medical cannabis or dosage for the certified patient.

16 6. When a registered organization sells, delivers, distributes or
17 dispenses medical cannabis to a certified patient or designated caregiv-
18 er, it shall provide to that individual a safety insert, developed by
19 the registered organization subject to regulations issued by the board
20 and include, but not be limited to, information on:

- 21 (a) methods for administering medical cannabis,
- 22 (b) any potential dangers stemming from the use of medical cannabis,
- 23 (c) how to recognize what may be problematic usage of medical cannabis
24 and obtain appropriate services or treatment for problematic usage, and
- 25 (d) other information as determined by the board.

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

- 38 (a) a felony conviction involving fraud, money laundering, forgery and
39 other unlawful conduct related to owning and operating a business; and
- 40 (b) a felony conviction for hiring, employing or using a minor in
41 transporting, carrying, selling, giving away, preparing for sale, or
42 peddling, any controlled substance, or selling, offering to sell,
43 furnishing, offering to furnish, administering, or giving any controlled
44 substance to a minor.

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

49 8. Manufacturing of medical cannabis by a registered organization
50 shall only be done in a secure facility located in New York state, which
51 may include a greenhouse. The board shall promulgate regulations estab-
52 lishing requirements for such facilities.

53 9. Dispensing of medical cannabis by a registered organization shall
54 only be done in an indoor, enclosed, secure facility located in New York
55 state. The board shall promulgate regulations establishing requirements
56 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.

15. A registered organization shall operate in accordance with minimum operating and recordkeeping requirements determined by the board in regulation.

§ 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;

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

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

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

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

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

19 (A) any position of management, interest or ownership during the
20 preceding ten years of a ten per centum or greater interest in any other
21 cannabis business, or applicant, located in or outside this state, manu-
22 facturing or distributing drugs including indirect management, interest,
23 or ownership of parent companies, subsidiaries, or affiliates;

24 (B) whether such person or any such business has been convicted of a
25 felony or had a registration or license suspended or revoked in any
26 administrative or judicial proceeding, and if applicable, the history of
27 violations or administrative penalties with respect to any license to
28 cultivate, manufacture, distribute or sell adult-use cannabis or medical
29 cannabis; and

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

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

35 3. (a) The board shall grant a registration or amendment to a regis-
36 tration under this section if they are satisfied that:

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

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

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

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

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

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

51 (B) whether the registered organization is a minority and/or woman
52 owned business enterprise, a service-disabled veteran-owned business, or
53 from communities disproportionately impacted by the enforcement of canna-
54 bis prohibition;

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

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

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

5 (F) whether the registered organization is culturally, linguistically,
6 and medically competent to provide services to unserved and underserved
7 areas; and

8 (G) whether the registered organization promotes racial, ethnic, and
9 gender diversity in their workforce;

10 (vi) the applicant and its managing officers are of good moral charac-
11 ter;

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

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

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

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

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

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

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

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

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

37 (e) Upon application of a registered organization, a registration may
38 be amended to allow the registered organization to relocate within the
39 state or to add or delete permitted registered organization activities
40 or facilities. The fee for such amendment shall be determined by the
41 board in regulation and be based off the administrative burden to proc-
42 ess and review the amendment by the office, provided no fee shall be
43 greater than two thousand dollars.

44 4. A registration issued under this section shall be valid for two
45 years from the date of issue, except that in order to facilitate the
46 renewals of such registrations, the board may upon the initial applica-
47 tion for a registration, issue some registrations which may remain valid
48 for a period of time greater than two years but not exceeding an addi-
49 tional eleven months.

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

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

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

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

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

12 (B) compliance by the applicant with the laws of the state with
13 respect to the cultivation, manufacture, distribution, or sale of
14 medical cannabis or adult-use cannabis, where applicable.

15 (c) An applicant for renewal shall be under a continuing duty to
16 report to the board any change in facts or circumstances reflected in
17 the application or any newly discovered or occurring fact or circum-
18 stance which is required to be included in the application and to obtain
19 approval prior to any material change in management, interest or owner-
20 ship.

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

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

34 6. (a) The board shall renew a registration unless he or she deter-
35 mines and finds that:

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

38 (ii) the applicant is unlikely to comply with all state laws applica-
39 ble to the activities in which it may engage under the registration;

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

43 (iv) the applicant has either violated or terminated its labor peace
44 agreement; or

45 (v) the applicant has substantively violated the laws of another
46 jurisdiction, in which they operate or have operated a cannabis license
47 or registration, related to the operation of a cannabis business.

48 (b) For purposes of this section, proof that a registered organiza-
49 tion, during the period of its registration, has failed to maintain
50 effective control against diversion, violates any provision of this
51 article, or has knowingly or negligently failed to comply with applica-
52 ble state laws relating to the activities in which it engages under the
53 registration, may constitute grounds for suspension, termination or
54 limitation of the registered organization's registration or as deter-
55 mined by the board. The registered organization shall also be under a
56 continuing duty to report to the office any material change or fact or

1 circumstance to the information provided in the registered organiza-
2 tion's application.

3 7. The board may suspend or terminate the registration of a registered
4 organization, on grounds and using procedures under this article relat-
5 ing to a license, to the extent consistent with this article. The board
6 shall suspend or terminate the registration in the event that a regis-
7 tered organization violates or terminates the applicable labor peace
8 agreement. Conduct in compliance with this article which may violate
9 conflicting federal law, shall not be grounds to suspend or terminate a
10 registration.

11 8. A registered organization that manufactures medical cannabis may
12 have no more than four dispensing sites wholly owned and operated by
13 such registered organization. Such registered organization may have an
14 additional four dispensing sites; provided, however, that the first two
15 additional dispensing sites shall be located in underserved or unserved
16 geographic locations, as determined by the board. The board shall ensure
17 that such registered organizations and dispensing sites are geograph-
18 ically distributed across the state and that their ownership reflects
19 the demographics of the state.

20 9. In coordination with the chief equity officer the board shall
21 register additional registered organizations to provide services to
22 unserved and underserved areas of the state. Pursuant to the social and
23 economic equity plan established by section eighty-seven of this chap-
24 ter, those additional registered organizations shall be reflective of
25 the demographics of the state, be representative of communities dispro-
26 portionately impacted by cannabis prohibition, and be culturally,
27 linguistically, and medically competent to serve unserved and under-
28 served areas of the state. The board shall actively promote racial,
29 ethnic, and gender diversity when registering additional registered
30 organizations.

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

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

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

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

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

§ 38. Cannabis research license. 1. The board shall establish a cannabis research license that permits a licensee to produce, process, purchase and/or 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.

1 7. The application fee for a cannabis research license shall be deter-
2 mined by the board on an annual basis and may be based on the size,
3 scope and duration of the research proposed.

4 8. Each cannabis research licensee shall issue an annual report to the
5 board. The board shall review such report and make a determination as to
6 whether the research project continues to meet the research qualifica-
7 tions under this section.

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

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

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

19 § 41. Home cultivation of medical cannabis. Certified patients twen-
20 ty-one years of age or older may cultivate cannabis for personal use.
21 Designated caregivers twenty-one years of age or older, caring for
22 certified patients either younger than twenty-one years of age or whose
23 physical or cognitive impairments prevent them from cultivating canna-
24 bis, may cultivate cannabis for use by such patients, provided that no
25 other caregiver is growing for said patient or patients. All culti-
26 vation under this section shall be in accordance with section 222.15 of
27 the penal law and any regulations made by the board, provided that the
28 maximum number of cannabis plants a designated caregiver is authorized
29 to grow is proportionately increased for each patient they are growing
30 for.

31 § 42. Protections for the medical use of cannabis. 1. Certified
32 patients, designated caregivers, designated caregiver facilities and
33 employees of designated caregiver facilities, practitioners, registered
34 organizations and the employees of registered organizations, and canna-
35 bis researchers shall not be subject to arrest, prosecution, or penalty
36 in any manner, or denied any right or privilege, including but not
37 limited to civil penalty or disciplinary action by a business or occupa-
38 tional or professional licensing board or bureau, solely for the certi-
39 fied medical use or manufacture of cannabis, or for any other action or
40 conduct in accordance with this article.

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

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

54 4. (a) Certification applications, certification forms, any certified
55 patient information contained within a database, and copies of registry
56 identification cards shall be deemed exempt from public disclosure under

sections eighty-seven and eighty-nine of the public officers law. Upon specific request by a certified patient to the office, the office shall verify the requesting patient's status as a valid certified patient to the patient's school or employer or other designated party, to ensure compliance with the protections afforded by this section.

(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.

6. Employees who use medical cannabis 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.

§ 43. Regulations. The board shall promulgate regulations to implement this article. The cannabis advisory board may make recommendations to the board.

§ 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, deliver 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 office 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

1 is not limited to: information about the applicant's identity, includ-
2 ing racial and ethnic diversity; ownership and investment information,
3 including the corporate structure; evidence of good moral character,
4 including the submission of fingerprints by the applicant to the divi-
5 sion of criminal justice services; information about the premises to be
6 licensed; financial statements; and any other information prescribed by
7 regulation.

8 3. All license applications shall be signed by the applicant (if an
9 individual), by a managing member (if a limited liability company), by
10 an officer (if a corporation), or by all partners (if a partnership).
11 Each person signing such application shall verify or affirm it as true
12 under the penalties of perjury.

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

16 5. If there are any proposed changes, after the filing of the applica-
17 tion or the granting of a license or permit, in any of the facts
18 required to be set forth in such application, a supplemental statement
19 giving notice of such proposed change, cost and source of money involved
20 in the change, duly verified or affirmed, shall be filed with the board
21 at least thirty days prior to such proposed change. Failure to do so
22 shall, if willful and deliberate, be cause for denial or revocation of
23 the license.

24 6. In giving any notice, or taking any action in reference to a regis-
25 tered organization or licensee of a licensed premises, the board may
26 rely upon the information furnished in such application and in any
27 supplemental statement connected therewith, and such information may be
28 presumed to be correct, and shall be binding upon registered organiza-
29 tions, licensee or licensed premises as if correct. All information
30 required to be furnished in such application or supplemental statements
31 shall be deemed material in any prosecution for perjury, any proceeding
32 to revoke, cancel or suspend any license, and in the board's final
33 determination to approve or deny the license.

34 7. The board may waive the submission of non-material information or
35 documentation described in this section, the waiver of which would not
36 be inconsistent with the purposes and goals set forth in this article,
37 for any category of license or permit, provided that it shall not be
38 permitted to waive the requirement for submission of any such category
39 of information solely for an individual applicant or applicants.

40 8. The board pursuant to regulation, may wholly prohibit and/or
41 prescribe specific criteria under which it will consider and allow
42 limited transfers or changes of ownership, interest, or control during
43 the registration or license application period and/or up to two years
44 after an approved applicant commences licensed activities.

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

50 1-a. The board shall also have the authority to assess a registered
51 organization with a one-time special licensing fee for a registered
52 organization adult-use cultivator processor, distributor retail dispen-
53 sary license. Such fee shall be assessed at an amount to adequately
54 fund social and economic equity and incubator assistance pursuant to
55 this article and paragraph (c) of subdivision three of section ninety-
56 nine-ii of the state finance law. Provided, however, that the board

1 shall not allow registered organizations to dispense adult-use cannabis
2 from more than three of their medical cannabis dispensing locations.
3 The timing and manner in which registered organizations may be granted
4 such authority shall be determined by the board in regulation.

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

11 3. The board shall waive or reduce fees pursuant to this section for
12 social and economic equity applicants.

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

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

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

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

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

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

30 (f) the applicant qualifies as a social and economic equity applicant
31 or sets out a plan for benefiting communities and people dispropor-
32 tionally impacted by enforcement of cannabis laws;

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

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

37 (ii) the number, classes, and character of other licenses in proximity
38 to the location and in the particular municipality, subdivision thereof
39 or geographic boundary as established by the board;

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

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

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

46 (vi) the ability to increase climate resiliency and minimize or elimi-
47 nate adverse environmental impacts, including but not limited to water
48 usage, energy usage, carbon emissions, waste, pollutants, harmful chemi-
49 cals and single use plastics;

50 (vii) the effect on the production, price and availability of cannabis
51 and cannabis products;

52 (viii) the applicant's history of violations and compliance with the
53 laws of another jurisdiction, in which they operate or have operated a
54 cannabis license or registration, related to the operation of a cannabis
55 business;

(ix) the applicant's history of violations related to the operation of a business, including but not limited to, violations related to labor laws, federal occupational safety and health law and tax compliance; and

(x) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage, public health and safety and the public interest of the state, county or 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, or any regulations promulgated hereunder;

(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 consideration to whether applicants have entered into an agreement with a statewide or local bona-fide building and construction trades organization for construction work on its licensed facilities;

(j) the applicant will contribute to communities and people disproportionately harmed by enforcement of cannabis laws through including, but not limited to, the social responsibility framework as provided in section sixty-six of this article 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, including compliance with energy standards, 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 eighteen years. Any employee eighteen years of age or older but under twenty-one years of age may not have direct interaction with customers inside a licensed retail store.

2. (a) 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 or any visibly intoxicated person.

(b) It shall be an affirmative defense that such person had produced a photographic identification card apparently issued by a governmental entity and that the cannabis had been sold, delivered or given to such person in reasonable reliance upon such identification. In evaluating

1 the applicability of such affirmative defense, the board shall take into
2 consideration any written policy or training adopted and implemented by
3 the licensee to prevent sales to minors.

4 3. No licensee or permittee shall knowingly sell, deliver or give away
5 or cause or permit or procure to be sold, delivered or given away to a
6 lawful cannabis consumer any amount of cannabis which they know would
7 cause the lawful cannabis consumer to be in violation of this chapter or
8 possession limits established by article two hundred twenty-two of the
9 penal law.

10 4. The board, on the recommendation of the office shall have the
11 authority to limit, by canopy, plant count, square footage or other
12 means, the amount of cannabis allowed to be grown, processed, distrib-
13 uted or sold by a licensee.

14 5. All licenses under this article shall expire two years after the
15 date of issue.

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

29 2. Each applicant must submit to the office documentation of the
30 racial, ethnic, and gender diversity of the applicant's employees and
31 owners prior to a license being renewed. In addition, the board shall
32 consult with the chief equity officer and executive director to create a
33 social responsibility framework agreement that fosters racial, ethnic,
34 and gender diversity in their workplace and make the adherence to such
35 agreement a conditional requirement of license renewal.

36 3. The board shall provide an application for renewal of a license
37 issued under this article not less than ninety days prior to the expira-
38 tion of the current license.

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

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

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

52 § 67. Amendments; changes in ownership and organizational structure.

53 1. Licenses issued pursuant to this article shall specify:

54 (a) the name and address of the licensee;

55 (b) the activities permitted by the license;

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

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

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

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

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

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

17 (a) for a corporation, a change of fifty-one percent or more of the
18 officers and/or directors, or a transfer of fifty-one percent or more of
19 stock of such corporation, or an existing stockholder obtaining fifty-
20 one percent or more of the stock of such corporation; or

21 (b) for a limited liability company, a change of fifty-one percent or
22 more of the managing members of the company, or a transfer of fifty-one
23 percent or more of ownership interest in said company, or an existing
24 member obtaining a cumulative of fifty-one percent or more of the owner-
25 ship interest in said company; or

26 (c) for a partnership, a change of fifty-one percent or more of the
27 managing partners of the company, or a transfer of fifty-one percent or
28 more of ownership interest in said company, or an existing member
29 obtaining a cumulative of fifty-one percent or more of the ownership
30 interest in said company.

31 § 68. Adult-use cultivator license. 1. An adult-use cultivator's
32 license shall authorize the acquisition, possession, distribution,
33 cultivation and sale of cannabis from the licensed premises of the
34 adult-use cultivator by such licensee to duly licensed processors in
35 this state. The board may establish regulations allowing licensed
36 adult-use cultivators to perform certain types of minimal processing
37 without the need for an adult-use processor license.

38 2. For purposes of this section, cultivation shall include, but not be
39 limited to, the agricultural production practices of planting, growing,
40 cloning, harvesting, drying, curing, grading and trimming of cannabis.

41 3. A person holding an adult-use cultivator's license may apply for,
42 and obtain, one processor's license and one distributor's license solely
43 for the distribution of their own products.

44 4. A person holding an adult-use cultivator's license may not also
45 hold a retail dispensary license pursuant to this article and no adult-
46 use cannabis cultivator shall have a direct or indirect interest,
47 including by stock ownership, interlocking directors, mortgage or lien,
48 personal or real property, management agreement, share parent companies
49 or affiliated organizations, or any other means, in any premises
50 licensed as an adult-use cannabis retail dispensary or in any business
51 licensed as an adult-use cannabis retail dispensary or in any registered
52 organization registered pursuant to article three of this chapter.

53 5. No person may have a direct or indirect financial or controlling
54 interest in more than one adult-use cultivator license issued pursuant
55 to this chapter, provided that one adult-use cultivator license may

1 authorize adult-use cultivation in more than one location pursuant to
2 criteria established by the board in regulation.

3 § 68-a. Registered organization adult-use cultivator processor
4 distributor retail dispensary license. 1. A registered organization
5 cultivator processor distributor retail dispensary license shall have
6 the same authorization and conditions as adult-use cultivator, adult-use
7 processor, adult-use distributor and adult-use retail dispensary
8 licenses issued pursuant to this article provided, however that the
9 location of its adult-use dispensaries shall be limited to only three of
10 the organization's medical dispensaries' premises and facilities author-
11 ized pursuant to article three of this chapter, and that it may only
12 distribute its own products. Provided further that such registered
13 organization shall maintain its medical cannabis license and continue
14 offering medical cannabis to a degree established by regulation of the
15 board. Such license does not qualify such organization for any other
16 adult-use license.

17 2. A person holding a registered organization adult-use cultivator
18 processor distributor retail dispensary license may not also hold another
19 retail dispensary license pursuant to this article and no registered
20 organization adult-use cultivator processor distributor retail dispens-
21 ary shall have a direct or indirect interest, including by stock owner-
22 ship, interlocking directors, mortgage or lien, personal or real prop-
23 erty, management agreement, share parent companies or affiliated
24 organizations, or any other means, in any premises licensed as an
25 adult-use cannabis retail dispensary or in any business licensed as an
26 adult-use cannabis retail dispensary.

27 § 68-b. Registered organization adult-use cultivator, processor and
28 distributor license. A registered organization cultivator, processor and
29 distributor license shall have the same authorization and conditions as
30 an adult-use cultivator, processor, and distributor license, provided,
31 however, that such license does not qualify such organization for any
32 other adult-use license and may only authorize the distribution of the
33 licensee's own products.

34 § 69. Adult-use processor license. 1. A processor's license shall
35 authorize the acquisition, possession, processing and sale of cannabis
36 from the licensed premises of the adult-use cultivator by such licensee
37 to duly licensed processors or distributors. A person holding an
38 adult-use processor's license may apply for, and obtain, one distribu-
39 tor's license solely for the distribution of their own products.

40 2. For purposes of this section, processing shall include, but not be
41 limited to, blending, extracting, infusing, packaging, labeling, brand-
42 ing and otherwise making or preparing cannabis products. Processing
43 shall not include the cultivation of cannabis.

44 3. No processor shall be engaged in any other business on the premises
45 to be licensed; except that a person issued an adult-use cannabis culti-
46 vator, processor, and/or distributor license may hold and operate all
47 issued licenses on the same premises.

48 4. No cannabis processor licensee may hold more than one cannabis
49 processor license provided a single license may authorize processor
50 activities at multiple locations, as set out in regulations by the
51 board.

52 5. No adult-use cannabis processor shall have a direct or indirect
53 interest, including by stock ownership, interlocking directors, mortgage
54 or lien, personal or real property, management agreement, share parent
55 companies or affiliated organizations or any other means, in any prem-
56 ises licensed as an adult-use cannabis retail dispensary or in any busi-

ness licensed as an adult-use cannabis retail dispensary or in any registered organization registered pursuant to article three of this chapter.

6. Adult-use processor licensees are subject to minimum operating requirements as determined by the board in regulation.

§ 70. Adult-use cooperative license. 1. A cooperative license shall authorize the acquisition, possession, cultivation, processing, distribution and sale from the licensed premises of the adult-use cooperative by such licensee to duly licensed distributors, on-site consumption sites, registered organization and/or retail dispensaries; but not directly to cannabis consumers.

2. To be licensed as an adult-use cooperative, the cooperative must:

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

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

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

(d) 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

(e) 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 adult-use cooperative licensed pursuant to this section.

4. No natural person or member of an adult-use cooperative license may have a direct or indirect financial or controlling interest in any other adult-use cannabis license issued pursuant to this chapter.

5. No adult-use cannabis cooperative shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this 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, adult-use cooperative, microbusiness, or registered organization authorized pursuant to this chapter to sell adult-use cannabis, to duly licensed retail dispensaries and on-site consumption sites.

2. No distributor shall have a direct or indirect economic interest in any microbusiness, adult-use retail dispensary, adult-use on-site consumption licensee or in any registered organization registered pursuant to article three of this chapter. This restriction shall not prohibit a registered organization authorized pursuant to section thirty-nine of this chapter, from being granted licensure by the board to distribute

1 adult-use cannabis products cultivated and processed by the registered
2 organization to licensed adult-use retail dispensaries.

3 3. Any distributor with a direct or indirect interest in a licensed
4 cultivator or processor, shall only distribute cannabis or cannabis
5 products cultivated and/or processed by such licensee.

6 4. Nothing in subdivision two of this section shall prevent a distrib-
7 utor from charging an appropriate fee, authorized by the board, for the
8 distribution of cannabis, including based on the volume of cannabis
9 distributed.

10 5. Adult-use distributor licensees are subject to minimum operating
11 requirements as determined by the board in regulation.

12 § 72. Adult-use retail dispensary license. 1. A retail dispensary
13 license shall authorize the acquisition, possession, sale and delivery
14 of cannabis from the licensed premises of the retail dispensary by such
15 licensee to cannabis consumers.

16 2. No person may have a direct or indirect financial or controlling
17 interest in more than three adult-use retail dispensary licenses issued
18 pursuant to this chapter.

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

25 4. No retail license shall be granted for any premises, unless the
26 applicant shall be the owner thereof, or shall be able to demonstrate
27 possession of the premises within thirty days of final approval of the
28 license through a lease, management agreement or other agreement giving
29 the applicant control over the premises, in writing, for a term not less
30 than the license period.

31 5. With the exception of delivery or microbusiness licensees, no prem-
32 ises shall be licensed to sell cannabis products, unless said premises
33 shall be located in a store, the principal entrance to which shall be
34 from the street level and located on a public thoroughfare in premises
35 which may be occupied, operated or conducted for business, trade or
36 industry.

37 6. No cannabis retail licensee shall locate a storefront within five
38 hundred feet of a school grounds as such term is defined in the educa-
39 tion law or within two hundred feet of a house of worship.

40 § 73. Microbusiness license. 1. A microbusiness license shall author-
41 ize the limited cultivation, processing, distribution, delivery, and
42 dispensing of their own adult-use cannabis and cannabis products.

43 2. A microbusiness licensee may not hold any direct or indirect inter-
44 est in any other license in this chapter and may only distribute its own
45 cannabis and cannabis products to dispensaries.

46 3. The size, scope and eligibility criteria of a microbusiness shall
47 be determined in regulation by the board in consultation with the execu-
48 tive director and the chief equity officer. The granting of such
49 licenses shall promote social and economic equity applicants as provided
50 for in this chapter.

51 § 74. Delivery license. A delivery license shall authorize the deliv-
52 ery of cannabis and cannabis products by licensees independent of anoth-
53 er adult-use cannabis license, provided that each delivery licensee may
54 have a total of no more than twenty-five individuals, or the equivalent
55 thereof, providing full-time paid delivery services to cannabis consum-
56 ers per week under one license. For the purposes of this section the

1 state cannabis advisory board shall provide recommendations to the board
2 for the application process, license criteria, and scope of licensed
3 activities for this class of license. No person may have a direct or
4 indirect financial or controlling interest in more than one delivery
5 license. The granting of such licenses shall promote social and economic
6 equity applicants as provided for in this chapter.

7 § 75. Nursery license. 1. A nursery license shall authorize the
8 production, sale and distribution of clones, immature plants, seeds, and
9 other agricultural products used specifically for the planting, propa-
10 gation, and cultivation of cannabis by licensed adult-use cultivators,
11 cooperatives, microbusinesses or registered organizations. For the
12 purposes of this section, the office shall provide recommendations to
13 the board for the application process, license criteria and scope of
14 licensed activities for this class of license. The granting of such
15 licenses shall promote social and economic equity applicants as provided
16 for in this chapter.

17 2. A person or entity holding an adult-use cultivator's license may
18 apply for, and obtain, one nursery license to sell directly to other
19 cultivators, cooperatives, microbusinesses, or registered organizations.

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

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

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

33 (b) in the city of New York, the community board established pursuant
34 to section twenty-eight hundred of the New York city charter with juris-
35 diction over the area in which the premises is located shall be consid-
36 ered the appropriate public body to which notification shall be given.

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

39 4. When a city, town, or village, and in New York city a community
40 board, expresses an opinion for or against the granting of such regis-
41 tration, license or permit application, any such opinion shall be deemed
42 part of the record upon which the office makes its recommendation to the
43 board to grant or deny the application and the board shall respond in
44 writing to such city, town, village or community board with an explana-
45 tion of how such opinion was considered in the granting or denial of an
46 application.

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

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

54 (a) the trade name or "doing business as" name, if any, of the estab-
55 lishment;

56 (b) the full name of the applicant;

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

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

5 (e) the name, address and telephone number of the attorney or repre-
6 sentative of the applicant, if any;

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

8 (i) a new establishment;

9 (ii) a transfer of an existing licensed business;

10 (iii) a renewal of an existing license; or

11 (iv) an alteration of an existing licensed premises;

12 (g) if the establishment is a transfer or previously licensed prem-
13 ises, the name of the old establishment and such establishment's regis-
14 tration or license number;

15 (h) in the case of a renewal or alteration application, the registra-
16 tion or license number of the applicant; and

17 (i) the type of license.

18 § 77. Adult-use on-site consumption license; provisions governing
19 on-site consumption licenses. 1. No applicant shall be granted an
20 adult-use on-site consumption license for any premises, unless the
21 applicant shall be the owner thereof, or shall be in possession of said
22 premises under a lease, in writing, for a term not less than the license
23 period except, however, that such license may thereafter be renewed
24 without the requirement of a lease as provided in this section. This
25 subdivision shall not apply to premises leased from government agencies;
26 provided, however, that the appropriate administrator of such government
27 agency provides some form of written documentation regarding the terms
28 of occupancy under which the applicant is leasing said premises from the
29 government agency for presentation to the office at the time of the
30 license application. Such documentation shall include the terms of occu-
31 pancy between the applicant and the government agency, including, but
32 not limited to, any short-term leasing agreements or written occupancy
33 agreements.

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

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

42 4. No applicant shall be granted an adult-use on-site consumption
43 license for any premises within five hundred feet of school grounds as
44 such term is defined in the education law or two hundred feet from a
45 house of worship.

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

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

52 (b) the number, classes, and character of other licenses in proximity
53 to the location and in the particular municipality or subdivision there-
54 of;

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

1 (d) whether there is a demonstrated need for spaces to consume canna-
2 bis;

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

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

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

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

15 7. No adult-use cannabis on-site consumption licensee shall keep upon
16 the licensed premises any adult-use cannabis products except those
17 purchased from a licensed adult-use distributor; registered organiza-
18 tion adult-use cultivator processor distributor retail dispenser;
19 registered organization adult-use cultivator, processor and distribu-
20 tor; cooperative, or microbusiness authorized to sell adult-use canna-
21 bis, and only in containers approved by the board. Such containers shall
22 have affixed thereto such labels as may be required by the rules of the
23 board. No adult-use on-site consumption licensee shall reuse, refill,
24 tamper with, adulterate, dilute or fortify the contents of any container
25 of cannabis products as received from the manufacturer or distributor.

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

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

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

46 11. Each adult-use on-site consumption licensee shall keep and main-
47 tain upon the licensed premises, adequate records of all transactions
48 involving the business transacted by such licensee which shall show the
49 amount of cannabis products, in an applicable metric measurement,
50 purchased by such licensee together with the names, license numbers and
51 places of business of the persons from whom the same were purchased, the
52 amount involved in such purchases, as well as the sales of cannabis
53 products made by such licensee. The board is hereby authorized to
54 promulgate rules and regulations permitting an on-site licensee operat-
55 ing two or more premises separately licensed to sell cannabis products
56 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. Such regulations may require the utilization of an approved seed-to-sale tracking system compiling a licensee's cannabis inventory and transaction data.

§ 79. Inspections and ongoing requirements. All licensed or permitted premises, regardless of the type of premises, and all records including but not limited to financial statements and corporate documents, 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. 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 of the requirements of this article, the regulations promulgated pursuant thereto, and 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 any person authorized to cultivate, process, or distribute under this article to:

(a) be interested directly or indirectly in any premises where any cannabis product is sold at retail, including for on-site consumption; or in any business devoted wholly or partially to the sale or delivery

1 of any cannabis product at retail, including for on-site consumption, by
2 stock ownership, interlocking directors, mortgage or lien or any
3 personal or real property, or by any other means;

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

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

10 (d) enter into any contract or agreement with any retail, on-site
11 consumption or delivery licensee whereby such licensee agrees to confine
12 his or her sales to cannabis products manufactured or sold by one or
13 more such cultivator or processors or distributors. Any such contract or
14 agreement shall be void and subject the licenses of all parties
15 concerned to revocation for cause and any applicable administrative
16 enforcement and penalties.

17 2. The provisions of this section shall not prohibit a registered
18 organization authorized pursuant to section thirty-nine or sixty-eight-a
19 of this chapter, or microbusiness authorized pursuant to section seven-
20 ty-three of this chapter, from cultivating, processing, or selling
21 adult-use cannabis under this article, at facilities wholly owned and
22 operated by such registered organization or microbusiness, subject to
23 any conditions, limitations or restrictions established by this chapter.

24 3. The board shall develop rules and regulations in regard to this
25 section.

26 § 81. Packaging, labeling, and administration of adult-use cannabis
27 products. 1. The board is hereby authorized to promulgate rules and
28 regulations governing the advertising, branding, marketing, packaging,
29 labeling and unconventional methods of administration or ingestion, of
30 cannabis products, sold or possessed for sale in New York state, includ-
31 ing rules pertaining to the accuracy of information and rules restrict-
32 ing marketing and advertising to youth.

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

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

37 (b) prior to delivery or sale at a retailer, cannabis and cannabis
38 products shall be labeled according to regulations and placed in a
39 resealable, child-resistant package; and

40 (c) packages, labels, shapes and products shall not be made to be
41 attractive to or target persons under the age of twenty-one.

42 3. Such regulations shall include requiring labels warning consumers
43 of any potential impact on human health resulting from the consumption
44 of cannabis products that shall be affixed to those products when sold,
45 if such labels are deemed warranted by the board and may establish
46 standardized and/or uniform packaging and labeling requirements for
47 adult-use products.

48 4. Such rules and regulations shall establish methods and procedures
49 for determining serving sizes for cannabis products, active cannabis
50 concentration per serving size, and number of servings per container or
51 package, and the methods of separating or clearly delineating servings
52 within a container or package. Such regulations may also require a
53 nutritional or supplement fact panel that incorporates data regarding
54 serving sizes and potency thereof.

55 5. Such rules and regulations shall establish approved product types
56 and forms and establish an application and review process to determine

1 the suitability of new product types and forms, taking into consider-
2 ation the consumer and public health and safety implications of differ-
3 ent product varieties, manufacturing processes, product types and forms,
4 the means and methods of administration associated with specific prod-
5 uct types, and any other criteria identified by the board for consider-
6 ation to protect public health and safety.

7 6. Such regulations shall also require product labels to accurately
8 display the total THC of each product.

9 7. The packaging, sale, marketing, branding, advertising, labeling or
10 possession by any licensee of any cannabis product not labeled or
11 offered in conformity with rules and regulations promulgated in accord-
12 ance with this section shall be grounds for the imposition of a fine,
13 and/or the suspension, revocation or cancellation of a license in
14 accordance with the provisions of this chapter.

15 § 82. Laboratory testing. 1. Every processor of adult-use cannabis
16 shall contract with an independent laboratory permitted pursuant to
17 section one hundred twenty-nine of this chapter, to test the cannabis
18 products it produces pursuant to rules and regulations prescribed by the
19 office. The board may assign an approved testing laboratory, which the
20 processor of adult-use cannabis must use, and may establish consortia
21 with neighboring states, to inform best practices, and share laboratory
22 data.

23 2. Adult-use cannabis processors, microbusinesses, cooperatives and
24 registered organizations shall make laboratory test reports available to
25 licensed distributors, retail dispensaries, and on-site consumption
26 sites for all cannabis products manufactured by the processor or licen-
27 see.

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

32 4. Onsite laboratory testing by licensees is permissible subject to
33 regulation; however, such testing shall not be certified by the board
34 and does not exempt the licensee from the requirements of quality assur-
35 ance testing at a testing laboratory pursuant to this section.

36 5. An owner of a cannabis laboratory testing permit shall not hold a
37 license, or interest in a license, in any other category within this
38 article and shall not own or have ownership interest in a registered
39 organization registered pursuant to article three of this chapter or a
40 cannabinoid hemp processor license pursuant to article five of this
41 chapter.

42 6. The board shall have the authority to require any licensee under
43 this article to submit cannabis or cannabis products to one or more
44 independent laboratories for testing and the board may promulgate regu-
45 lations related to all aspects of third-party testing and quality assur-
46 ance including but not limited to:

47 (a) minimum testing and sampling requirements;

48 (b) testing and sampling methodologies;

49 (c) testing reporting requirements;

50 (d) retesting; and

51 (e) product quarantine, hold, recall, and remediation.

52 § 83. Provisions governing the cultivation and processing of adult-use
53 cannabis. 1. Cultivation and processing of cannabis shall comply with
54 regulations promulgated by the board governing minimum requirements for
55 adult-use cultivators, nurseries, processors, microbusinesses, cooper-

atives, registered organizations, and registered organization cultivators.

2. No cultivator or processor of adult-use cannabis shall sell, or agree to sell or deliver in the state any cannabis products, as the case may be, except in 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 or other means of tracking and identification as may be required by the rules of the board.

3. No cultivator or processor of adult-use cannabis shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the board. The board may make such rules as it deems necessary to carry out the purpose and intent of this subdivision.

4. Cultivators of adult-use cannabis consistent with protecting public health and safety, 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 to the extent possible, 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.

5. No cultivator or processor of adult-use cannabis shall transport any cannabis products, except in vehicles owned and operated by such cultivator or processor, or hired by such cultivator or processor and operated by a trucking or transportation company registered with the office, and shall only make deliveries at the licensed premises of the purchaser.

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

7. All cannabis products shall be processed in accordance with good manufacturing practices for the product category, pursuant to either Part 111 or Part 117 of Title 21 of the Code of Federal Regulations, as may be modified by the board in regulation.

8. 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.

9. The use or integration of alcoholic beverages or nicotine in cannabis products is strictly prohibited.

10. The board shall promulgate regulations governing the minimum requirements for the secure transport of adult-use cannabis.

§ 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 pack-

1 age. Such containers shall have affixed thereto such labels as may be
2 required by the rules of the board.

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

8 3. Each distributor shall keep and maintain upon the licensed prem-
9 ises, adequate books and records of all transactions involving the busi-
10 ness transacted by such distributor, which shall show the amount of
11 cannabis products purchased by such distributor and the total THC
12 content of purchased cannabis products as reflected on the product
13 labels together with the names, license numbers and places of business
14 of the persons from whom the same was purchased and the amount involved
15 in such purchases, as well as the amount of cannabis products sold by
16 such distributor together and the total THC content of cannabis products
17 sold as reflected on the final product labels, with the names,
18 addresses, and license numbers of such purchasers and any other informa-
19 tion required in regulation. Each sale shall be recorded separately on
20 a numbered invoice, which shall have printed thereon the number, the
21 name of the licensee, the address of the licensed premises, and the
22 current license number. Such distributor shall deliver to the purchaser
23 a true duplicate invoice stating the name and address of the purchaser,
24 the quantity of cannabis products, the total THC content of cannabis
25 products sold as reflected on the product labels, description by brands
26 and the price of such cannabis products, and a true, accurate and
27 complete statement of the terms and conditions on which such sale is
28 made. Such books, records and invoices shall be kept for a period of
29 five years and shall be available for inspection by any authorized
30 representative of the board.

31 4. No distributor shall furnish or cause to be furnished to any licen-
32 see, any exterior or interior sign, printed, painted, electric or other-
33 wise, unless authorized by the board.

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

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

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

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

1 2. Valid proof of age is required for each transaction. No licensee,
2 or agent or employee of such licensee shall accept as written evidence
3 of age by any such person for the purchase of any cannabis or cannabis
4 product, any documentation other than: (a) a valid driver's license or
5 non-driver identification card issued by the commissioner of motor vehi-
6 cles, the federal government, any United States territory, commonwealth
7 or possession, the District of Columbia, a state government within the
8 United States or a provincial government of the dominion of Canada, or
9 (b) a valid passport issued by the United States government or any other
10 country, or (c) an identification card issued by the armed forces of the
11 United States. Upon the presentation of such driver's license or non-
12 driver identification card issued by a governmental entity, such licen-
13 see or agent or employee thereof may perform a transaction scan as a
14 precondition to the sale of any cannabis or cannabis product. Nothing in
15 this section shall prohibit a licensee or agent or employee from
16 performing such a transaction scan on any of the other documents listed
17 in this subdivision if such documents include a bar code or magnetic
18 strip that may be scanned by a device capable of deciphering any elec-
19 tronically readable format. In instances where the information deci-
20 phered by the transaction scan fails to match the information printed on
21 the driver's license or non-driver identification card presented by the
22 card holder, or if the transaction scan indicates that the information
23 is false or fraudulent, the attempted purchase of the cannabis or canna-
24 bis product shall be denied.

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

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

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

37 6. All premises licensed under this section shall be subject to
38 inspection by any peace officer described in subdivision four of section
39 2.10 of the criminal procedure law acting pursuant to his or her special
40 duties, or police officer or any duly authorized representative of the
41 board. All licensees shall be subject to reasonable inspection by the
42 office and a person who holds a license must make himself or herself, or
43 an agent thereof, available and present for any inspection required by
44 the office. The office shall make reasonable accommodations so that
45 ordinary business is not interrupted, and safety and security procedures
46 are not compromised by the inspection.

47 7. No cannabis retail licensee shall be interested, directly or indi-
48 rectly, in any cultivator, processor, distributor or microbusiness oper-
49 ator licensed pursuant to this article, by stock ownership, interlocking
50 directors, mortgage or lien on any personal or real property or by any
51 other means. Any lien, mortgage or other interest or estate, however,
52 now held by such retailer on or in the personal or real property of such
53 manufacturer or distributor, which mortgage, lien, interest or estate
54 was acquired on or before December thirty-first, two thousand nineteen,
55 shall not be included within the provisions of this subdivision;
56 provided, however, the burden of establishing the time of the accrual of

1 the interest comprehended by this subdivision, shall be upon the person
2 who claims to be entitled to the protection and exemption afforded here-
3 by.

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

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

12 10. No person licensed to sell cannabis products at retail, shall
13 allow or permit any gambling, or offer any gambling on the licensed
14 premises, or allow or permit illicit drug activity on the licensed prem-
15 ises.

16 11. All adult-use dispensing facilities shall make educational mate-
17 rials and resources available to cannabis consumers at the point of
18 sale, as prescribed by the board.

19 12. The board is authorized, to promulgate regulations governing
20 licensed adult-use dispensing facilities, including but not limited to,
21 the hours of operation, size and location of the licensed facility,
22 types and concentration of product servings offered and establishing a
23 minimum and maximum margin for retail dispensary markups of cannabis
24 product or products before selling to a cannabis consumer. It shall be
25 unlawful for any retail dispensary to sell any adult-use cannabis prod-
26 uct for less than the minimum markup allowed in regulation.

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

31 2. The board shall promulgate regulations for advertising and market-
32 ing content including but not limited to explicit rules prohibiting
33 advertising that:

- 34 (a) is false, deceptive, or misleading;
- 35 (b) promotes overconsumption;
- 36 (c) depicts consumption;
- 37 (d) is designed in any way to appeal to children or other minors;
- 38 (e) is within or is readily observed within five hundred feet of the
39 perimeter of a school grounds, playground, child day care providers,
40 public park, or library;
- 41 (f) is in public transit vehicles and stations;
- 42 (g) is in the form of an unsolicited internet pop-up;
- 43 (h) is on publicly owned or operated property;
- 44 (i) makes medical claims or promotes adult-use cannabis for a medical
45 or wellness purpose;
- 46 (j) promotes or implements discounts, coupons, or other means of sell-
47 ing adult-use cannabis products below market value or whose discount
48 would subvert local and state tax collections;
- 49 (k) is in the form of a billboard; or
- 50 (l) fails to satisfy any other advertising or marketing rule or regu-
51 lations promulgated by the board related to marketing or advertising,
52 not inconsistent with this chapter.

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

1 (a) appeal to persons less than twenty-one years of age and/or popu-
2 lations at-risk of increased adverse health consequences as determined
3 by the board in regulation; or

4 (b) disseminate false or misleading information to customers.

5 4. The board shall promulgate regulations requiring that:

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

8 (b) any broadcast, cable, radio, print and digital communications
9 advertisements only be placed where the audience is reasonably expected
10 to be twenty-one years of age or older, as determined by reliable,
11 up-to-date audience composition data. The burden of proving this
12 requirement lies with the party that has paid for or facilitated the
13 advertisement.

14 5. The board may establish procedures to review and enforce advertis-
15 ing and marketing requirements.

16 § 87. Social and economic equity, minority and women-owned businesses,
17 distressed farmers and service-disabled veterans; incubator program. 1.
18 The board, in consultation with the chief equity officer and executive
19 director, and after receiving public input shall create and implement a
20 social and economic equity plan and actively promote applicants from
21 communities disproportionately impacted by cannabis prohibition, and
22 promote racial, ethnic, and gender diversity when issuing licenses for
23 adult-use cannabis related activities, including mentoring potential
24 applicants, by prioritizing consideration of applications by applicants
25 who are from communities disproportionately impacted by the enforcement
26 of cannabis prohibition or who qualify as a minority or women-owned
27 business, distressed farmers, or service-disabled veterans. Such quali-
28 fications shall be determined by the board, with recommendations from
29 the state cannabis advisory board, the chief equity officer and execu-
30 tive director, by regulation.

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

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

39 (b) minority-owned businesses;

40 (c) women-owned businesses;

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

43 (e) distressed farmers, as defined in subdivision five of this
44 section; and

45 (f) service-disabled veterans.

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

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

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

54 (c) was convicted of a marihuana-related offense prior to the effec-
55 tive date of this chapter, or had a parent, guardian, child, spouse, or

1 dependent, or was a dependent of an individual who, prior to the effective date of this chapter, was convicted of a marijuana-related offense.

2 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.

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

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

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

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

7 (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;

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

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

10 (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:

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

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

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

14 (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.

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

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

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

18 (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;

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

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

21 (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.

22 (e) "Distressed farmer" shall mean: (i) a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that meets the small farm classification developed by the Economic Research Service of the United

1 States Department of Agriculture, has filed a schedule F with farm
2 receipts for the last three years, qualifies for an agriculture assess-
3 ment and meets other qualifications defined in regulation by the board
4 to demonstrate that they operate a farm operation as defined in section
5 three hundred one of the agriculture and markets law and has been
6 disproportionately impacted, including but not limited to incurring
7 operating losses, by low commodity prices and faces the loss of farmland
8 through development or suburban sprawl and meets any other qualifica-
9 tions as defined in regulation by board; or (ii) a New York state resi-
10 dent or business enterprise, including a sole proprietorship, partner-
11 ship, limited liability company or corporation, that is a small farm
12 operator and a member of a group that has been historically underrepre-
13 sented in farm ownership and meets any other qualifications as defined
14 in regulation by board.

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

17 (g) "Communities disproportionately impacted" shall mean, but not be
18 limited to, a history of arrests, convictions, and other law enforcement
19 practices in a certain geographic area, such as, but not limited to,
20 precincts, zip codes, neighborhoods, and political subdivisions,
21 reflecting a disparate enforcement of cannabis prohibition during a
22 certain time period, when compared to the rest of the state. The board
23 shall, with recommendations from the state cannabis advisory board, the
24 chief equity officer and executive director, issue guidelines to deter-
25 mine how to assess which communities have been disproportionately
26 impacted and how to assess if someone is a member of a community dispro-
27 portionately impacted.

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

30 7. Licenses issued under the social and economic equity plan shall not
31 be transferred or sold within the first three years of issue, except to
32 a qualified social and economic equity applicant and with the prior
33 written approval of the board. In the event a social and economic equity
34 applicant seeks to transfer or sell their license at any point after
35 issue and the transferee is to a person or entity that does not qualify
36 as a social and economic equity applicant, the transfer agreement shall
37 require the new license holder to pay to the board any outstanding
38 amount owed by the transferor to the board as repayment of any loan
39 issued by the board as well as any other fee or assessment as determined
40 by the board.

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

44 § 89. Regulations. The board shall promulgate regulations with recom-
45 mendations from the state cannabis advisory board to implement this
46 article.

47 ARTICLE 5

48 CANNABINOID HEMP AND HEMP EXTRACT

49 Section 90. Definitions.

50 91. Rulemaking authority.

51 92. Cannabinoid hemp processor license.

52 93. Cannabinoid hemp retailer license.

53 94. Cannabinoid license applications.

54 95. Information to be requested in applications for licenses.

96. Fees.
97. Selection criteria.
98. License renewal.
99. Form of license.
100. Transferability; amendment to license; change in ownership or control.
101. Granting, suspending or revoking licenses.
102. Record keeping and tracking.
103. Packaging and labeling of cannabinoid hemp and hemp extract.
104. Processing of cannabinoid hemp and hemp extract.
105. Laboratory testing.
106. New York hemp product.
107. Penalties.
108. Hemp workgroup.
109. Prohibitions.
110. Special use permits.
111. Severability.

§ 90. Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

1. "Cannabinoid" means the phytocannabinoids found in hemp and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law.

2. "Cannabinoid hemp" means any hemp and any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three tenths of one percent 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.

9. "Cannabinoid hemp flower" means the flower of the plant *Cannabis sativa* L. that has been harvested, dried, and cured, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent, on a dry weight basis, prior to any processing.

10. "Cannabinoid hemp flower product" means cannabinoid hemp flower that has been minimally processed consistent with the requirements of this article, intended for retail sale to consumers.

§ 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;

11. Any other regulations necessary to implement this article;

12. Nothing in this article shall prevent the sale of cannabinoid hemp flower; provided however, that any cannabinoid hemp flower product sold shall be limited to a person over twenty-one years of age and shall be subject to regulations promulgated by the board; provided further that such regulations shall not unduly restrict the availability of cannabinoid hemp flower; and

13. Any cannabinoid hemp flower product clearly labeled or advertised for the purposes of smoking, or in the form of a cigarette, cigar, or pre-roll, or packaged or combined with other items designed to facilitate smoking such as rolling papers or pipes, shall only be offered for

1 sale in adult-use cannabis retail dispensaries licensed pursuant to
2 article four of this chapter.

3 § 92. Cannabinoid hemp processor license. 1. Persons processing canna-
4 binoid hemp or hemp extract used for human consumption, whether in
5 intermediate or final form, shall be required to obtain a cannabinoid
6 hemp processor license from the board.

7 2. A cannabinoid hemp processor license authorizes one or more specif-
8 ic activities related to the processing of cannabinoid hemp into
9 products used for human consumption, whether in intermediate or final
10 form, and the distribution or sale thereof by the licensee. Nothing
11 herein shall prevent a cannabinoid hemp processor from processing,
12 extracting and processing hemp products not to be used for human
13 consumption.

14 3. Persons authorized to grow hemp pursuant to article twenty-nine of
15 the agriculture and markets law are not authorized to engage in process-
16 ing of cannabinoid hemp or hemp extract without first being licensed as
17 a cannabinoid hemp processor under this article.

18 4. This article shall not apply to hemp, cannabinoid hemp, hemp
19 extracts or products derived therefrom that are not used for human
20 consumption. This article also shall not apply to hemp, cannabinoid
21 hemp, hemp extracts or products derived therefrom that have been deemed
22 generally recognized as safe pursuant to federal law.

23 5. The board shall have the authority to set reasonable fees for such
24 license, to limit the activities permitted by such license, to establish
25 the period during which such license is authorized, which shall be two
26 years or more, and to make rules and regulations necessary to implement
27 this section.

28 6. Any person holding an active research partnership agreement with
29 the department of agriculture and markets, authorizing that person to
30 process cannabinoid hemp, shall be awarded licensure under this section,
31 provided that the research partner is actively performing research
32 pursuant to such agreement and is able to demonstrate compliance with
33 this article, as determined by the board, after notice and an opportu-
34 nity to be heard.

35 § 93. Cannabinoid hemp retailer license. 1. Retailers selling cannabi-
36 noid hemp, in final form to consumers within the state, shall be
37 required to obtain a cannabinoid hemp retailer license from the board.

38 2. The board shall have the authority to set reasonable fees for such
39 license, to establish the period during which such license is author-
40 ized, which shall be one year or more, and to make rules and regulations
41 necessary to implement this section.

42 § 94. Cannabinoid license applications. 1. Persons shall apply for a
43 license under this article by submitting an application upon a form
44 supplied by the board, providing all the relevant requested information,
45 verified by the applicant or an authorized representative of the appli-
46 cant.

47 2. A separate license shall be required for each facility at which
48 processing or retail sales are conducted; however, an applicant may
49 submit one application for separate licensure at multiple locations.

50 3. Each applicant shall remit with its application the fee for each
51 requested license, which shall be a reasonable fee.

52 § 95. Information to be requested in applications for licenses. 1. The
53 board may specify the manner and form in which an application shall be
54 submitted to the board for licensure under this article.

55 2. The board may adopt regulations establishing what relevant informa-
56 tion shall be included on an application for licensure under this arti-

1 cle. Such information may include, but is not limited to: information
2 about the applicant's identity; ownership and investment information,
3 including the corporate structure; evidence of good moral character;
4 financial statements; information about the premises to be licensed;
5 information about the activities to be licensed; and any other relevant
6 information specified in regulation.

7 3. All license applications shall be signed by the applicant if an
8 individual, by a managing partner if a limited liability company, by an
9 officer if a corporation, or by all partners if a partnership. Each
10 person signing such application shall verify it as true under the penal-
11 ties of perjury.

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

15 5. If there be any change, after the filing of the application or the
16 granting, modification or renewal of a license, in any of the material
17 facts required to be set forth in such application, a supplemental
18 statement giving notice of such change, duly verified, shall be filed
19 with the board within ten days after such change. Failure to do so, if
20 willful and deliberate, may be grounds for revocation of the license.

21 § 96. Fees. The board may charge licensees a reasonable license fee.
22 Such fee may be based on the activities permitted by the license, the
23 amount of cannabinoid hemp or hemp extract to be processed or extracted
24 by the licensee, the gross annual receipts of the licensee for the
25 previous license period, or any other factors reasonably deemed appro-
26 priate by the board.

27 § 97. Selection criteria. 1. The applicant, if an individual or indi-
28 viduals, shall furnish evidence of the individual's good moral charac-
29 ter, and if an entity, the applicant shall furnish evidence of the good
30 moral character of the individuals who have or will have substantial
31 responsibility for the licensed or authorized activity and those in
32 control of the entity, including principals, officers, or others with
33 such control.

34 2. The applicant shall furnish evidence of the applicant's experience
35 and competency, and that the applicant has or will have adequate facili-
36 ties, equipment, process controls, and security to undertake those
37 activities for which licensure is sought.

38 3. The applicant shall furnish evidence of his, her or its ability to
39 comply with all applicable state and local laws, rules and regulations.

40 4. If the board is not satisfied that the applicant should be issued a
41 license, the board shall notify the applicant in writing of the specific
42 reason or reasons for denial.

43 5. No license pursuant to this article may be issued to an individual
44 under the age of eighteen years.

45 § 98. License renewal. 1. Each license, issued pursuant to this arti-
46 cle, may be renewed upon application therefor by the licensee and the
47 payment of the reasonable fee for such license as specified by this
48 article.

49 2. In the case of applications for renewals, the board may dispense
50 with the requirements of such statements as it deems unnecessary in view
51 of those contained in the application made for the original license.

52 3. The board shall provide an application for renewal of any license
53 issued under this article not less than ninety days prior to the expira-
54 tion of the current license.

55 4. The board may only issue a renewal license upon receipt of the
56 specified renewal application and renewal fee from a licensee if, in

1 addition to the selection criteria set out in this article, the
2 licensee's license is not under suspension and has not been revoked.

3 § 99. Form of license. Licenses issued pursuant to this article shall
4 specify:

5 1. The name and address of the licensee;

6 2. The activities permitted by the license;

7 3. The land, buildings and facilities that may be used for the
8 licensed activities of the licensee;

9 4. A unique license number issued by the board to the licensee; and

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

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

15 2. Upon application of a licensee, a license may be amended to add or
16 delete permitted activities.

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

21 § 101. Granting, suspending or revoking licenses. After due notice and
22 an opportunity to be heard, established by rules and regulations, the
23 board may decline to grant a new license, impose conditions or limits
24 with respect to the grant of a license, modify an existing license or
25 decline to renew a license, and may suspend or revoke a license already
26 granted after due notice and an opportunity to be heard, as established
27 by rules and regulations, whenever the board finds that:

28 1. A material statement contained in an application is or was false or
29 misleading;

30 2. The applicant or licensee, or a person in a position of management
31 and control thereof or of the licensed activity, does not have good
32 moral character, necessary experience or competency, adequate facilities,
33 equipment, process controls, or security to process, distribute,
34 transport or sell cannabinoid hemp, hemp extract or products derived
35 therefrom;

36 3. After appropriate notice and opportunity, the applicant or licensee
37 has failed or refused to produce any records or provide any information
38 required by this article or the regulations promulgated pursuant thereto;
39 to;

40 4. The licensee has conducted activities outside of those activities
41 permitted on its license; or

42 5. The applicant or licensee, or any officer, director, partner, or
43 any other person exercising any position of management or control thereof
44 of or of the licensed activity has willfully failed to comply with any
45 of the provisions of this article or regulations under it and other laws
46 of this state applicable to the licensed activity.

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

50 § 103. Packaging and labeling of cannabinoid hemp and hemp extract. 1.
51 Cannabinoid hemp processors shall be required to provide appropriate
52 label warning to consumers, and restricted from making unapproved label
53 claims, as determined by the board, concerning the potential impact on
54 or benefit to human health resulting from the use of cannabinoid hemp,
55 hemp extract and products derived therefrom for human consumption, which

1 labels shall be affixed to those products when sold, pursuant to rules
2 and regulations that the board may adopt.

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

12 3. The packaging, sale, or possession of products derived from canna-
13 binoid hemp or hemp extract used for human consumption not labeled or
14 offered in conformity with regulations under this section shall be
15 grounds for the seizure or quarantine of the product, the imposition of
16 a civil penalty against a processor or retailer, and the suspension,
17 revocation or cancellation of a license, in accordance with this arti-
18 cle.

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

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

34 3. All cannabinoid hemp, hemp extract and products derived therefrom
35 used for human consumption shall be extracted and processed in accord-
36 ance with good manufacturing processes pursuant to Part 117 or Part 111
37 of title 21 of the code of federal regulations, as may be defined, modi-
38 fied and decided upon by the board in rules or regulations.

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

45 § 105. Laboratory testing. Every cannabinoid hemp processor shall
46 contract with an independent commercial laboratory to test the hemp
47 extract and products produced by the licensed processor. The board shall
48 establish the necessary qualifications or certifications required for
49 such laboratories used by licensees. The board is authorized to issue
50 rules and regulations consistent with this article establishing the
51 testing required, the reporting of testing results and the form for
52 reporting such laboratory testing results. The board has authority to
53 require licensees to submit any cannabinoid hemp, hemp extract or prod-
54 uct derived therefrom, processed or offered for sale within the state,
55 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.

- 1 130. Special use permits.
- 2 131. Local opt-out; municipal control and preemption.
- 3 131-a. Office to be necessary party to certain proceedings.
- 4 132. Penalties for violation of this chapter.
- 5 133. Revocation of registrations, licenses and permits for
6 cause; procedure for revocation or cancellation.
- 7 134. Lawful actions pursuant to this chapter.
- 8 135. Review by courts.
- 9 136. Illicit cannabis.
- 10 137. Persons forbidden to traffic cannabis; certain officials
11 not to be interested in manufacture or sale of cannabis
12 products.
- 13 138. Access to criminal history information through the divi-
14 sion of criminal justice services.
- 15 138-a. Injunction for unlawful manufacturing, sale, or distrib-
16 ution of cannabis.
- 17 139. Severability.

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

24 2. No registered organization, licensee, or permittee or other entity
25 under the jurisdiction of the board shall sell, or agree to sell or
26 deliver in this state any cannabis or cannabinoid hemp or hemp extract
27 for the purposes of resale to any person who is not duly registered,
28 licensed or permitted pursuant to this chapter to sell such product, at
29 wholesale or retail, as the case may be, at the time of such agreement
30 and sale.

31 3. No registered organization, licensee, or permittee or other entity
32 under the jurisdiction of the board shall employ, or permit to be
33 employed, or shall allow to work, on any premises registered or licensed
34 for retail sale hereunder, any person under the age of eighteen years in
35 any capacity where the duties of such person require or permit such
36 person to sell, dispense or handle cannabis. Any employee eighteen
37 years of age or older and under twenty-one years of age may not have
38 direct interaction with customers inside a licensed retail store.

39 4. No registered organization, licensee, or permittee, or other entity
40 under the jurisdiction of the board, shall sell, deliver or give away,
41 or cause, permit or procure to be sold, delivered or given away any
42 cannabis, cannabis product, or medical cannabis on credit; except that a
43 registered organization, licensee or permittee may accept third party
44 credit cards for the sale of any cannabis, cannabis product, or medical
45 cannabis for which it is registered, licensed or permitted to dispense
46 or sell to patients or cannabis consumers. This includes, but is not
47 limited to, any consignment sale of any kind.

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

53 6. No registered organization, licensee, or permittee, or other entity
54 under the jurisdiction of the board, shall refuse, nor any person hold-
55 ing a registration, license, or permit refuse, nor any officer or direc-
56 tor of any corporation or organization holding a registration, license,

1 or permit refuse, to appear and/or testify under oath at an inquiry or
2 hearing held by the board, with respect to any matter bearing upon the
3 registration, license, or permit, the conduct of any people at the
4 licensed premises, or bearing upon the character or fitness of such
5 registrant, licensee, or permittee, or other entity under the jurisdic-
6 tion of the board, to continue to hold any registration, license, or
7 permit. Nor shall any of the above offer false testimony under oath at
8 such inquiry or hearing.

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

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

21 9. As it is a privilege under the law to be registered, licensed, or
22 permitted to cultivate, process, distribute, or sell cannabis, the board
23 may impose any such further restrictions upon any registrant, licensee,
24 or permittee in particular instances as it deems necessary to further
25 state policy and best serve the public interest. A violation or failure
26 of any person registered, licensed, or permitted to comply with any
27 condition, stipulation, or agreement, upon which any registration,
28 license, or permit was issued or renewed by the board may, in accordance
29 with this chapter subject the registrant, licensee, or permittee to
30 suspension, cancellation, revocation, and/or civil penalties in accord-
31 ance with this chapter, as determined by the board.

32 10. No adult-use cannabis or medical cannabis may be imported to, or
33 exported out of, New York state by a registered organization, licensee
34 or person holding a license and/or permit pursuant to this chapter,
35 until such time as it may become legal to do so under federal law.
36 Should it become legal to do so under federal law, the board may promul-
37 gate such rules and regulations as it deems necessary to protect the
38 public and the policy of the state, including but not limited to prior-
39 itize and promote New York cannabis. Further, all such cannabis or
40 cannabis products must be distributed in a manner consistent with the
41 provisions of this chapter.

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

49 12. No licensee shall employ any canvasser or solicitor for the
50 purpose of receiving an order from a certified patient, designated care-
51 giver or cannabis consumer for any cannabis product, or medical cannabis
52 at the residence or place of business of such patient, caregiver or
53 consumer, nor shall any licensee receive or accept any order, for the
54 sale of any cannabis product, or medical cannabis which shall be solici-
55 ited at the residence or place of business of a patient, caregiver or
56 consumer. This subdivision shall not prohibit the solicitation by a

1 distributor of an order from any licensee at the licensed premises of
2 such licensee.

3 § 126. License to be confined to premises licensed; premises for which
4 no license shall be granted; transporting cannabis. 1. A registration,
5 license, or permit issued to any person, pursuant to this chapter, for
6 any registered, licensed, or permitted premises shall not be transfera-
7 ble to any other person, to any other location or premises, or to any
8 other building or part of the building containing the licensed premises
9 except in the discretion of the office. All privileges granted by any
10 registration, license, or permit shall be available only to the person
11 therein specified, and only for the premises licensed and no other
12 except if authorized by the board. Provided, however, that the
13 provisions of this section shall not be deemed to prohibit the amendment
14 of a registration or license as provided for in this chapter. A
15 violation of this section shall subject the registration, license, or
16 permit to revocation for cause.

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

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

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

45 (a) a sale between relatives;
46 (b) a sale between related companies or partners in a business; or
47 (c) a sale, lease, management agreement, or other agreement giving the
48 applicant control over the cannabis at the premises, affected by other
49 facts or circumstances that would indicate that the sale, lease, manage-
50 ment agreement, or other agreement giving the applicant control over the
51 cannabis at the premises, is entered into for the primary purpose of
52 permitting the original licensee to avoid the effect of the revocation.

53 5. No registered organization, licensee or permittee shall transport
54 cannabis products or medical cannabis except in vehicles owned and oper-
55 ated by such registered organization, licensee or permittee, or hired
56 and operated by such registered organization, licensee or permittee from

1 a trucking or transportation company permitted and registered with the
2 board.

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

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

26 2. No landlord may refuse to lease to and may not otherwise penalize
27 an individual solely for conduct authorized under this chapter, except:

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

30 (b) if a property has in place a smoke-free policy, it is not required
31 to permit the smoking of cannabis products on its premises, provided no
32 such restriction may be construed to limit the certified medical use of
33 cannabis.

34 2-a. No school, college or university may refuse to enroll and may not
35 otherwise penalize a person solely for conduct allowed under this chap-
36 ter, except:

37 (a) if failing to do so would cause the school, college or university
38 to lose a monetary or licensing related benefit under federal law or
39 regulations; or

40 (b) if the school, college or university has adopted a code of conduct
41 prohibiting cannabis use on the basis of a sincere religious belief of
42 the school, college or university.

43 3. For the purposes of medical care, including organ transplants, a
44 certified patient's authorized use of medical cannabis must be consid-
45 ered the equivalent of the use of any other medication under the direc-
46 tion of a practitioner and does not constitute the use of an illicit
47 substance or otherwise disqualify a registered qualifying patient from
48 medical care.

49 4. An employer shall adhere to policies regarding cannabis use in
50 accordance with section two hundred one-d of the labor law.

51 5. No person may be denied custody of or visitation or parenting time
52 with a minor under the family court act, domestic relations law or
53 social services law, solely for conduct permitted under this chapter
54 including, but not limited to, section 222.05 or 222.15 of the penal
55 law, unless it is in the best interest of the child and the child's
56 physical, mental or emotional condition has been impaired, or is in

1 imminent danger of becoming impaired as a result of the person's behav-
2 ior as established by a fair preponderance of the evidence. For the
3 purposes of this section, this determination cannot be based solely on
4 whether, when, and how often a person uses cannabis without separate
5 evidence of harm.

6 6. A person currently under parole, probation or other state super-
7 vision, or released on recognizance, non-monetary conditions, or bail
8 prior to being convicted, shall not be punished or otherwise penalized
9 for conduct allowed under this chapter unless the terms and conditions
10 of said parole, probation, or state supervision explicitly prohibit a
11 person's cannabis use or any other conduct otherwise allowed under this
12 chapter. A person's use of cannabis or conduct under this chapter shall
13 not be prohibited unless it has been shown by clear and convincing
14 evidence that the prohibition is reasonably related to the underlying
15 crime. Nothing in this provision shall restrict the rights of a certi-
16 fied medical patient.

17 § 128. Permits, registrations and licenses. 1. No permit, registra-
18 tion or license shall be transferable or assignable except that notwith-
19 standing any other provision of law, the permit, registration or license
20 of a sole proprietor converting to corporate form, where such proprietor
21 becomes the sole stockholder and only officer and director of such new
22 corporation, may be transferred to the subject corporation if all
23 requirements of this chapter remain the same with respect to such
24 permit, registration or license as transferred and, further, the regis-
25 tered organization or licensee shall transmit to the board, within ten
26 days of the transfer of license allowable under this subdivision, on a
27 form prescribed by the board, notification of the transfer of such
28 license.

29 2. No permit, registration or license shall be pledged or deposited as
30 collateral security for any loan or upon any other condition; and any
31 such pledge or deposit, and any contract providing therefor, shall be
32 void.

33 3. Permits, registrations and licenses issued under this chapter shall
34 contain, in addition to any further information or material to be
35 prescribed by the rules and regulations of the board, the following
36 information:

- 37 (a) name of the person to whom the license is issued;
38 (b) type of license and what type of cannabis commerce is thereby
39 permitted;
40 (c) description by street and number, or otherwise, of licensed prem-
41 ises; and
42 (d) a statement in substance that such license shall not be deemed a
43 property or vested right, and that it may be revoked at any time pursu-
44 ant to law.

45 § 129. Laboratory testing permits. 1. The board shall approve and
46 permit one or more independent cannabis testing laboratories to test
47 medical cannabis, adult-use cannabis and/or cannabinoid hemp or hemp
48 extract.

49 2. To be permitted as an independent cannabis laboratory, a laboratory
50 must apply to the office, on a form and in a manner prescribed by the
51 office, which may include a reasonable fee, and must demonstrate the
52 following to the satisfaction of the board:

- 53 (a) the owners and directors of the laboratory are of good moral char-
54 acter;
55 (b) the laboratory and its staff has the skills, resources and exper-
56 tise needed to accurately and consistently perform all of the testing

1 required for adult-use cannabis, medical cannabis and/or cannabinoid
2 hemp or hemp extract;

3 (c) the laboratory has in place and will maintain adequate policies,
4 procedures, and facility security to ensure proper: collection, label-
5 ing, accessioning, preparation, analysis, result reporting, disposal and
6 storage of adult-use cannabis, and/or medical cannabis;

7 (d) for the testing of cannabis, the laboratory is physically located
8 in New York state; and

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

11 3. The owner of a laboratory testing permit under this section shall
12 not hold a permit, registration or license in any category of this chap-
13 ter and shall not have any direct or indirect ownership interest in such
14 registered organization or licensee. No board member, officer, manager,
15 owner, partner, principal stakeholder or member of a registered organ-
16 ization or licensee under this chapter, or such person's immediate fami-
17 ly member, shall have an interest or voting rights in any laboratory
18 testing permittee.

19 4. The board shall require that the permitted laboratory report test-
20 ing results to the board in a manner, form and timeframe as determined
21 by the office.

22 5. The board is authorized to promulgate regulations, establishing
23 minimum operating and testing requirements, and requiring permitted
24 laboratories to perform certain tests and services.

25 6. A laboratory granted a laboratory testing permit under this chapter
26 shall not required to be licensed by the federal drug enforcement agen-
27 cy.

28 7. The board is authorized to enter into contracts or memoranda of
29 understanding with any other state for the purposes of aligning labora-
30 tory testing requirements or establishing best practices in testing of
31 cannabis.

32 § 130. Special use permits. The board shall have the authority to
33 issue temporary permits for carrying on activities consistent with the
34 policy and purpose of this chapter with respect to cannabis. No special
35 use permit shall extend for a period longer than ninety days and shall
36 not be renewable, except where a permit is being issued to a licensee as
37 defined in article four of this chapter. A special use permit shall be
38 issued pursuant to an abbreviated application process. The special use
39 permit holder shall have ninety days in which to become fully licensed
40 by satisfying all of the remaining conditions for licensure which were
41 not required for the issuance of the special use permit.

42 The board may set reasonable fees for such permits and make rules and
43 regulations to implement this section.

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

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

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

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

6 § 131. Local opt-out; municipal control and preemption. 1. The licen-
7 sure and establishment of a retail dispensary license and/or on-site
8 consumption license under the provisions of article four of this chapter
9 authorizing the retail sale of adult-use cannabis to cannabis consumers
10 shall not be applicable to a town, city or village which, after the
11 effective date of this chapter, and, on or before the later of December
12 thirty-first, two thousand twenty-one or nine months after the effective
13 date of this section, adopts a local law, subject to permissive referen-
14 dum governed by section twenty-four of the municipal home rule law,
15 requesting the cannabis control board to prohibit the establishment of
16 such retail dispensary licenses and/or on-site consumption licenses
17 contained in article four of this chapter, within the jurisdiction of
18 the town, city or village. Provided, however, that any town law shall
19 apply to the area of the town outside of any village within such town.
20 No local law may be adopted after the later of December thirty-first,
21 two thousand twenty-one or nine months after the effective date of this
22 section prohibiting the establishment of retail dispensary licenses
23 and/or on-site consumption licenses; provided, however, that a local law
24 repealing such prohibition may be adopted after such date.

25 2. Except as provided for in subdivision one of this section, all
26 county, town, city and village governing bodies are hereby preempted
27 from adopting any law, rule, ordinance, regulation or prohibition
28 pertaining to the operation or licensure of registered organizations,
29 adult-use cannabis licenses or cannabinoid hemp licenses. However,
30 towns, cities and villages may pass local laws and regulations governing
31 the time, place and manner of the operation of licensed adult-use canna-
32 bis retail dispensaries and/or on-site consumption site, provided such
33 law or regulation does not make the operation of such licensed retail
34 dispensaries or on-site consumption sites unreasonably impracticable as
35 determined by the board.

36 § 131-a. Office to be necessary party to certain proceedings. The
37 office shall be made a party to all actions and proceedings affecting in
38 any manner the possession, ownership or transfer of a registration,
39 license or permit to operate within a municipality and to all such
40 injunction proceedings.

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

47 2. Any registered organization or licensee, who has received notifica-
48 tion of a registration or license suspension pursuant to the provisions
49 of this chapter, who sells cannabis, cannabis products, medical cannabis
50 or cannabinoid hemp or hemp extract during the suspension period, shall
51 be subject to prosecution as provided in article two hundred twenty-two
52 of the penal law, and upon conviction thereof under this section may be
53 subject to a civil penalty of not more than five thousand dollars.

54 3. Any person who shall knowingly make any materially false statement
55 in the application for a registration, license or a permit under this
56 chapter may be subject to license or registration suspension, revoca-

tion, or denial subject to the board, and 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.

6. After due notice and opportunity to be heard, as established by rules and regulations, nothing in this section shall prohibit the board from suspending, revoking, or denying a license, permit, registration, or application in addition to the penalties prescribed in this section.

§ 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.

2. 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.

3. 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.

4. (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

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

3 (b) (i) As used in this section, the term "for cause" shall also
4 include deliberately misleading the board or office of cannabis manage-
5 ment:

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

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

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

16 5. As used in this chapter, the existence of a sustained and continu-
17 ing pattern of misconduct or disorder on or about the premises may be
18 presumed upon the sixth incident reported to the board by a law enforce-
19 ment agency, or discovered by the board during the course of any inves-
20 tigation, of misconduct or disorder on or about the premises or related
21 to the operation of the premises, absent clear and convincing evidence
22 of either fraudulent intent on the part of any complainant or a factual
23 error with respect to the content of any report concerning such
24 complaint relied upon by the board.

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

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

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

41 9. Where a licensee or permittee is convicted of two or more qualify-
42 ing offenses within a five-year period, the office, upon receipt of
43 notification of such second or subsequent conviction, shall, in addition
44 to any other sanction or civil or criminal penalty imposed pursuant to
45 this chapter, impose on such licensee a civil penalty not to exceed ten
46 thousand dollars. For purposes of this subdivision, a qualifying offense
47 shall mean the sale of cannabis to a person under the age of twenty-one
48 not otherwise authorized by this chapter. For purposes of this subdivi-
49 sion only, a conviction of a licensee or an employee or agent of such
50 licensee shall constitute a conviction of such licensee.

51 10. The board may adopt rules and regulations based on federal guid-
52 ance, provided those rules and regulations are designed to comply with
53 federal guidance and mitigate federal enforcement against the registra-
54 tions, licenses, or permits issued under this chapter, or the cannabis
55 industry as a whole. This may include regulations which permit the shar-
56 ing of licensee, registrant, or permit holder information with desig-

1 nated banking or financial institutions, provided these regulations are
2 designed to aid cannabis industry participants' access to banking and
3 financial services.

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

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

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

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

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

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

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

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

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

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

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

45 (e) Refusal to approve alteration of premises.

46 (f) Refusal to approve a corporate change in stockholders, stockhold-
47 ings, officers or directors.

48 § 136. Illicit cannabis. 1. "Illicit cannabis" means and includes any
49 cannabis flower, concentrated cannabis and cannabis product on which any
50 tax required to have been paid under any applicable state law, has not
51 been paid. Illicit cannabis shall not include any cannabis lawfully
52 possessed in accordance with this chapter or the penal law.

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

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

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

10 5. Any person who, being the owner, lessee or occupant of any room,
11 shed, tenement, booth, building, float, vessel or part thereof who know-
12 ingly permits the same to be used for the cultivation, processing,
13 distribution, purchase, sale, warehousing or transportation of any
14 cannabis, in violation of a possession limit in the penal law, known by
15 the person to be illicit cannabis, is guilty of a violation.

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

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

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

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

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

42 (c) A partnership or a corporation, unless each member of the partner-
43 ship, or each of the principal officers and directors of the corpo-
44 ration, is a citizen of the United States or a person lawfully admitted
45 for permanent residence in the United States, not less than twenty-one
46 years of age; provided however that a corporation which otherwise
47 conforms to the requirements of this section and chapter may be licensed
48 if each of its principal officers and more than one-half of its direc-
49 tors are citizens of the United States or persons lawfully admitted for
50 permanent residence in the United States; and provided further that a
51 corporation organized under the not-for-profit corporation law or the
52 education law which otherwise conforms to the requirements of this
53 section and chapter may be licensed if each of its principal officers
54 and directors are not less than twenty-one years of age; and provided,
55 further, that a corporation organized under the not-for-profit corpo-
56 ration law or the education law and located on the premises of a college

1 as defined by section two of the education law which otherwise conforms
2 to the requirements of this section and chapter may be licensed if each
3 of its principal officers and each of its directors are not less than
4 twenty-one years of age;

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

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

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

18 2. Except as may otherwise be provided for in regulation, it shall be
19 unlawful for any chief of police, police officer or subordinate of any
20 police department in the state, to be either directly or indirectly
21 interested in the cultivation, processing, distribution, or sale of
22 cannabis products or to offer for sale, or recommend to any registered
23 organization or licensee any cannabis products. A person may not be
24 denied any registration or license granted under the provisions of this
25 chapter solely on the grounds of being the spouse or domestic partner of
26 a public servant described in this section. The solicitation or recom-
27 mendation made to any registered organization or licensee, to purchase
28 any cannabis products by any police official or subordinate as hereina-
29 bove described, shall be presumptive evidence of the interest of such
30 official or subordinate in the cultivation, processing, distribution, or
31 sale of cannabis products.

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

36 § 138. Access to criminal history information through the division of
37 criminal justice services. In connection with the administration of
38 this chapter, the board is authorized to request, receive and review
39 criminal history information through the division of criminal justice
40 services with respect to any person seeking a registration, license,
41 permit or authorization to cultivate, process, distribute or sell
42 medical cannabis, adult-use cannabis, cannabinoid hemp or hemp extract.
43 At the board's request, each person, member, principal and/or officer of
44 the applicant shall submit to the board his or her fingerprints in such
45 form and in such manner as specified by the division, for the purpose of
46 conducting a criminal history search identifying criminal convictions
47 and pending criminal charges and returning a report thereon in accord-
48 ance with the procedures and requirements established by the division
49 pursuant to the provisions of article thirty-five of the executive law,
50 which shall include the payment of the reasonable prescribed processing
51 fees for the cost of the division's full search and retain procedures
52 and a national criminal history record check. The board, or their desig-
53 nee, shall submit such fingerprints and the processing fee to the divi-
54 sion. The division shall forward to the board a report with respect to
55 the applicant's previous criminal history, if any, or a statement that
56 the applicant has no previous criminal history according to its files.

1 Fingerprints submitted to the division pursuant to this subdivision may
2 also be submitted to the federal bureau of investigation for a national
3 criminal history record check. If additional copies of fingerprints are
4 required, the applicant shall furnish them upon request. Upon receipt of
5 such criminal history information, the board shall provide such appli-
6 cant with a copy of such criminal history information, together with a
7 copy of article twenty-three-A of the correction law, and inform such
8 applicant of his or her right to seek correction of any incorrect infor-
9 mation contained in such criminal history information pursuant to regu-
10 lations and procedures established by the division of criminal justice
11 services.

12 § 138-a. Injunction for unlawful manufacturing, sale, or distribution
13 of cannabis. The office of cannabis management shall have the authority
14 to request an injunction against any person who is unlawfully cultivat-
15 ing, processing, distributing or selling cannabis in this state without
16 obtaining the appropriate registration, license, or permit therefor, in
17 accordance with this chapter and any applicable state law.

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

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

36 § 3302. Definitions of terms of general use in this article. Except
37 where different meanings are expressly specified in subsequent
38 provisions of this article, the following terms have the following mean-
39 ings:

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

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

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

53 4. ~~["Concentrated Cannabis" means~~
54 ~~(a) the separated resin, whether crude or purified, obtained from a~~
55 ~~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.

1 ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-
2 gation, compounding, cultivation, conversion or processing of a
3 controlled substance, either directly or indirectly or by extraction
4 from substances of natural origin, or independently by means of chemical
5 synthesis, or by a combination of extraction and chemical synthesis, and
6 includes any packaging or repackaging of the substance or labeling or
7 relabeling of its container, except that this term does not include the
8 preparation, compounding, packaging or labeling of a controlled
9 substance:

10 (a) by a practitioner as an incident to his administering or dispens-
11 ing of a controlled substance in the course of his professional prac-
12 tice; or

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

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

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

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

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

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

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

34 22.] 20. "Narcotic drug" means any of the following, whether produced
35 directly or indirectly by extraction from substances of vegetable
36 origin, or independently by means of chemical synthesis, or by a combi-
37 nation of extraction and chemical synthesis:

38 (a) opium and opiate, and any salt, compound, derivative, or prepa-
39 ration of opium or opiate;

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

44 (c) opium poppy and poppy straw.

45 ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or
46 addiction-sustaining liability similar to morphine or being capable of
47 conversion into a drug having addiction-forming or addiction-sustaining
48 liability. It does not include, unless specifically designated as
49 controlled under section ~~[3306]~~ thirty-three hundred six of this ~~[arti-~~
50 ~~cle]~~ title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and
51 its salts (dextromethorphan). It does include its racemic and levorota-
52 tory forms.

53 ~~[24.]~~ 22. "Opium poppy" means the plant of the species *Papaver*
54 *somniferum* L., except its seeds.

1 ~~[25.]~~ 23. "Person" means individual, institution, corporation, govern-
2 ment or governmental subdivision or agency, business trust, estate,
3 trust, partnership or association, or any other legal entity.

4 ~~[26.]~~ 24. "Pharmacist" means any person licensed by the state depart-
5 ment of education to practice pharmacy.

6 ~~[27.]~~ 25. "Pharmacy" means any place registered as such by the New
7 York state board of pharmacy and registered with the Federal agency
8 pursuant to the federal controlled substances act.

9 ~~[28.]~~ 26. "Poppy straw" means all parts, except the seeds, of the
10 opium poppy, after mowing.

11 ~~[29.]~~ 27. "Practitioner" means:

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

19 ~~[30.]~~ 28. "Prescribe" means a direction or authorization, by
20 prescription, permitting an ultimate user lawfully to obtain controlled
21 substances from any person authorized by law to dispense such
22 substances.

23 ~~[31.]~~ 29. "Prescription" shall mean an official New York state
24 prescription, an electronic prescription, an oral prescription~~[7.]~~ or an
25 out-of-state prescription~~[7.]~~ or any one.

26 ~~[32.]~~ 30. "Sell" means to sell, exchange, give or dispose of to anothe-
27 er, or offer or agree to do the same.

28 ~~[33.]~~ 31. "Ultimate user" means a person who lawfully obtains and
29 possesses a controlled substance for his own use or the use by a member
30 of his household or for an animal owned by him or in his custody. It
31 shall also mean and include a person designated, by a practitioner on a
32 prescription, to obtain such substance on behalf of the patient for whom
33 such substance is intended.

34 ~~[34.]~~ 32. "Internet" means collectively computer and telecommuni-
35 cations facilities which comprise the worldwide network of networks that
36 employ a set of industry standards and protocols, or any predecessor or
37 successor protocol to such protocol, to exchange information of all
38 kinds. "Internet," as used in this article, also includes other
39 networks, whether private or public, used to transmit information by
40 electronic means.

41 ~~[35.]~~ 33. "By means of the internet" means any sale, delivery,
42 distribution, or dispensing of a controlled substance that uses the
43 internet, is initiated by use of the internet or causes the internet to
44 be used.

45 ~~[36.]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person
46 in the United States that sells, delivers or dispenses, or offers to
47 sell, deliver, or dispense, a controlled substance by means of the
48 internet.

49 ~~[37.]~~ 35. "Electronic prescription" means a prescription issued with
50 an electronic signature and transmitted by electronic means in accord-
51 ance with regulations of the commissioner and the commissioner of educa-
52 tion and consistent with federal requirements. A prescription generated
53 on an electronic system that is printed out or transmitted via facsimile
54 is not considered an electronic prescription and must be manually
55 signed.

1 ~~[38.]~~ 36. "Electronic" means of or relating to technology having elec-
2 trical, digital, magnetic, wireless, optical, electromagnetic or similar
3 capabilities. "Electronic" shall not include facsimile.

4 ~~[39.]~~ 37. "Electronic record" means a paperless record that is
5 created, generated, transmitted, communicated, received or stored by
6 means of electronic equipment and includes the preservation, retrieval,
7 use and disposition in accordance with regulations of the commissioner
8 and the commissioner of education and in compliance with federal law and
9 regulations.

10 ~~[40.]~~ 38. "Electronic signature" means an electronic sound, symbol, or
11 process, attached to or logically associated with an electronic record
12 and executed or adopted by a person with the intent to sign the record,
13 in accordance with regulations of the commissioner and the commissioner
14 of education.

15 ~~[41.]~~ 39. "Registry" or "prescription monitoring program registry"
16 means the prescription monitoring program registry established pursuant
17 to section thirty-three hundred forty-three-a of this article.

18 ~~[42.]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
19 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
20 drug substance to create a drug with respect to an outsourcing facility
21 under section 503B of the federal Food, Drug and Cosmetic Act and
22 further defined in this section.

23 ~~[43.]~~ 41. "Outsourcing facility" means a facility that:

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

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

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

30 Notwithstanding any other provision of law to the contrary, when an
31 outsourcing facility distributes or dispenses any drug to any person
32 pursuant to a prescription, such outsourcing facility shall be deemed to
33 be providing pharmacy services and shall be subject to all laws, rules
34 and regulations governing pharmacies and pharmacy services.

35 § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
36 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
37 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
38 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of
39 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of
40 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the
41 laws of 2006, are amended to read as follows:

42 (13) ~~[Marihuana.]~~

43 ~~(14)]~~ Mescaline.

44 ~~(15)]~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
45 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

46 ~~(16)]~~ (15) Peyote. Meaning all parts of the plant presently classi-
47 fied botanically as Lophophora williamsii Lemaire, whether growing or
48 not, the seeds thereof, any extract from any part of such plant, and
49 every compound, manufacture, salts, derivative, mixture, or preparation
50 of such plant, its seeds or extracts.

51 ~~(17)]~~ (16) N-ethyl-3-piperidyl benzilate.

52 ~~(18)]~~ (17) N-methyl-3-piperidyl benzilate.

53 ~~(19)]~~ (18) Psilocybin.

54 ~~(20)]~~ (19) Psilocyn.

55 ~~(21)]~~ (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
56 derived from the cannabis plant that are equivalents of the substances

1 contained in the plant, or in the resinous extractives of cannabis, sp.
2 and/or synthetic substances, derivatives, and their isomers with similar
3 chemical structure and pharmacological activity such as the following:

4 [1] delta 1 cis or trans tetrahydrocannabinol, and their optical
5 isomers

6 [1] delta 6 cis or trans tetrahydrocannabinol, and their optical
7 isomers

8 [1] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
9 isomers (since nomenclature of these substances is not internationally
10 standardized, compounds of these structures, regardless of numerical
11 designation of atomic positions covered). Any Federal Food and Drug
12 Administration approved product containing tetrahydrocannabinol shall
13 not be considered a synthetic tetrahydrocannabinol.

14 ~~[(22)]~~ (21) Ethylamine analog of phencyclidine. Some trade or other
15 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
16 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

17 ~~[(23)]~~ (22) Pyrrolidine analog of phencyclidine. Some trade or other
18 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

19 ~~[(24)]~~ (23) Thiophene analog of phencyclidine. Some trade or other
20 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
21 phencyclidine, TPCP, TCP.

22 ~~[(25)]~~ (24) 3,4-methylenedioxymethamphetamine (MDMA).

23 ~~[(26)]~~ (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
24 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
25 MDE, MDEA.

26 ~~[(27)]~~ (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
27 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
28 N-hydroxy MDA.

29 ~~[(28)]~~ (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other
30 names: TCPY.

31 ~~[(29)]~~ (28) Alpha-ethyltryptamine. Some trade or other names:
32 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
33 3-(2-aminobutyl) indole; Alpha-ET or AET.

34 ~~[(30)]~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
35 names: DOET.

36 ~~[(31)]~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
37 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
38 DOB; 2C-B, Nexus.

39 ~~[(32)]~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
40 optical isomers, salts and salts of isomers.

41 § 5. Subdivision 8 of section 1399-n of the public health law, as
42 amended by chapter 131 of the laws of 2019, is amended to read as
43 follows:

44 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
45 any other matter or substance which contains tobacco or ~~[marihuana]~~
46 cannabis as defined in section ~~[thirty-three hundred two of this~~
47 ~~chapter]~~ 222.00 of the penal law, or cannabinoid hemp as defined in
48 section three of the cannabis law.

49 § 5-a. Section 1399-q of the public health law, as amended by chapter
50 335 of the laws of 2017, is amended to read as follows:

51 § 1399-q. Smoking and vaping restrictions inapplicable. 1. This
52 article shall not apply to:

53 ~~[1-]~~ (a) Private homes~~]~~ and private residences ~~[and private~~
54 ~~automobiles]~~;

55 ~~[2-]~~ (b) Private automobiles;

56 (c) A hotel or motel room rented to one or more guests;

1 ~~[3-]~~ (d) Retail tobacco businesses;

2 ~~[4-]~~ (e) Membership associations; provided, however, that smoking and
3 vaping shall only be allowed in membership associations in which all of
4 the duties with respect to the operation of such association, including,
5 but not limited to, the preparation of food and beverages, the service
6 of food and beverages, reception and secretarial work, and the security
7 services of the membership association are performed by members of such
8 membership association who do not receive compensation of any kind from
9 the membership association or any other entity for the performance of
10 such duties;

11 ~~[5-]~~ (f) Cigar bars that, in the calendar year ending December thir-
12 ty-first, two thousand two, generated ten percent or more of its total
13 annual gross income from the on-site sale of tobacco products and the
14 rental of on-site humidors, not including any sales from vending
15 machines, and is registered with the appropriate enforcement officer, as
16 defined in subdivision one of section thirteen hundred ninety-nine-t of
17 this article. Such registration shall remain in effect for one year and
18 shall be renewable only if: (a) in the preceding calendar year, the
19 cigar bar generated ten percent or more of its total annual gross income
20 from the on-site sale of tobacco products and the rental of on-site
21 humidors, and (b) the cigar bar has not expanded its size or changed its
22 location from its size or location since December thirty-first, two
23 thousand two;

24 ~~[6-]~~ (g) Outdoor dining areas of food service establishments with no
25 roof or other ceiling enclosure; provided, however, that smoking and
26 vaping may be permitted in a contiguous area designated for smoking and
27 vaping so long as such area: (a) constitutes no more than twenty-five
28 percent of the outdoor seating capacity of such food service establish-
29 ment, (b) is at least three feet away from the outdoor area of such food
30 service establishment not designated for smoking and vaping, and (c) is
31 clearly designated with written signage as a smoking and vaping area;

32 ~~[7-]~~ (h) Enclosed rooms in food service establishments, bars, catering
33 halls, convention halls, hotel and motel conference rooms, and other
34 such similar facilities during the time such enclosed areas or rooms are
35 being used exclusively for functions where the public is invited for the
36 primary purpose of promoting and sampling tobacco products or electronic
37 cigarettes, and the service of food and drink is incidental to such
38 purpose, provided that the sponsor or organizer gives notice in any
39 promotional material or advertisements that smoking and vaping will not
40 be restricted, and prominently posts notice at the entrance of the
41 facility and has provided notice of such function to the appropriate
42 enforcement officer, as defined in subdivision one of section thirteen
43 hundred ninety-nine-t of this article, at least two weeks prior to such
44 function. The enforcement officer shall keep a record of all tobacco
45 sampling events, and such record shall be made available for public
46 inspection. No such facility shall permit smoking and vaping under this
47 subdivision for more than two days in any calendar year; ~~and~~

48 ~~8-]~~ (i) Retail electronic cigarette stores, provided however, that
49 such stores may only permit the use of electronic cigarettes~~[-]~~; and

50 (j) Adult-use on-site consumption premises authorized pursuant to
51 article four of the cannabis law, provided however, that such locations
52 may only permit the smoking or vaping of cannabis.

53 2. The restrictions of this article on the smoking or vaping of canna-
54 bis shall continue to apply to those locations identified in paragraphs
55 (b), (d), (f), (g), (h) and (i) of subdivision one of this section.

56 § 6. Title 5-A of article 33 of the public health law is REPEALED.

1 § 6-a. Article 33-B of the public health law is REPEALED.

2 § 6-b. The commissioner of health and the cannabis control board shall
3 work in conjunction to expeditiously transfer the oversight of the
4 medical use of cannabis to ensure continuity of care, and the responsi-
5 bility for regulation of cannabinoid hemp and hemp extract, from the
6 department of health to the office of cannabis management. For the
7 purposes of this section continuity of care shall include, but not be
8 limited to, a certified patient's ability to engage in the lawful
9 medical use of cannabis, and a registered organization's ability to
10 conduct its lawful operations.

11 § 6-c. Section 3382 of the public health law is REPEALED.

12 § 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs
13 (a) and (b) of subdivision 11 of section 1311 of the civil practice law
14 and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added
15 by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdi-
16 vision 11 as amended by section 47 of part A1 of chapter 56 of the laws
17 of 2010, are amended to read as follows:

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

30 3-a. Conviction of a person in a criminal action upon an accusatory
31 instrument which includes one or more of the felonies specified in
32 subdivision four-b of section thirteen hundred ten of this article, of
33 any felony other than such felonies, shall not preclude a defendant, in
34 any subsequent proceeding under this article where that conviction is at
35 issue, from adducing evidence that the conduct underlying the conviction
36 would not establish the elements of any of the felonies specified in
37 such subdivision other than the one to which the criminal defendant pled
38 guilty. If the defendant does adduce such evidence, the burden shall be
39 upon the claiming authority to prove, by clear and convincing evidence,
40 that the conduct underlying the criminal conviction would establish the
41 elements of the felony specified in such subdivision. Nothing contained
42 in this subdivision shall affect the validity of a settlement of any
43 forfeiture action negotiated between the claiming authority and a crimi-
44 nal defendant contemporaneously with the taking of a plea of guilty in a
45 criminal action to any felony defined in article two hundred twenty [~~or~~
46 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to
47 commit the same.

48 (a) Any stipulation or settlement agreement between the parties to a
49 forfeiture action shall be filed with the clerk of the court in which
50 the forfeiture action is pending. No stipulation or settlement agreement
51 shall be accepted for filing unless it is accompanied by an affidavit
52 from the claiming authority that written notice of the stipulation or
53 settlement agreement, including the terms of such, has been given to the
54 office of victim services, the state division of criminal justice
55 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. Paragraphs b and c of subdivision 2 of section 201-d of the labor law, as added by chapter 776 of the laws of 1992, are amended to read as follows:

b. an individual's legal use of consumable products, including cannabis in accordance with state law, 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;

c. an individual's legal recreational activities, including cannabis in accordance with state law, outside work hours, off of the employer's premises and without use of the employer's equipment or other property; or

§ 9-b. Section 201-d of the labor law, as amended by chapter 778 of the laws of 1992, is amended by adding a new subdivision 4-a, to read as follows:

4-a. Notwithstanding the provisions of subdivision three or four of this section, an employer shall not be in violation of this section where the employer takes action related to the use of cannabis based on the following:

(i) the employer's actions were required by state or federal statute, regulation, ordinance, or other state or federal governmental mandate;

(ii) the employee is impaired by the use of cannabis, meaning 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, or such specific articulable symptoms interfere with an employer's obligation to provide a safe and healthy work place, free from recognized hazards, as required by state and federal occupational safety and health law; or

(iii) the employer's actions would require such employer to commit any act that would cause the employer to be in violation of federal law or would result in the loss of a federal contract or federal funding.

§ 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 1-(d)~~] paragraphs (5), (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 and home possession 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 or drug products approved by the Federal Food and Drug Administration.

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

1 transfer of cannabis or concentrated cannabis between persons twenty-one
2 years of age or older without compensation in the quantities authorized
3 in paragraph (b) of subdivision one of section 222.05 of this article.

4 4. For the purposes of this article, "smoking" shall have the same
5 meaning as that term is defined in section three of the cannabis law.

6 § 222.05 Personal use of cannabis.

7 Notwithstanding any other provision of law to the contrary:

8 1. The following acts are lawful for persons twenty-one years of age
9 or older: (a) possessing, displaying, purchasing, obtaining, or trans-
10 porting up to three ounces of cannabis and up to twenty-four grams of
11 concentrated cannabis;

12 (b) transferring, without compensation, to a person twenty-one years
13 of age or older, up to three ounces of cannabis and up to twenty-four
14 grams of concentrated cannabis;

15 (c) using, smoking, ingesting, or consuming cannabis or concentrated
16 cannabis unless otherwise prohibited by state law;

17 (d) possessing, using, displaying, purchasing, obtaining, manufactur-
18 ing, transporting or giving to any person twenty-one years of age or
19 older cannabis paraphernalia or concentrated cannabis paraphernalia;

20 (e) planting, cultivating, harvesting, drying, processing or possess-
21 ing cultivated cannabis in accordance with section 222.15 of this arti-
22 cle; and

23 (f) assisting another person who is twenty-one years of age or older,
24 or allowing property to be used, in any of the acts described in para-
25 graphs (a) through (e) of this subdivision.

26 2. Cannabis, concentrated cannabis, cannabis paraphernalia or concen-
27 trated cannabis paraphernalia involved in any way with conduct deemed
28 lawful by this section are not contraband nor subject to seizure or
29 forfeiture of assets under article four hundred eighty of this chapter,
30 section thirteen hundred eleven of the civil practice law and rules, or
31 other applicable law, and no conduct deemed lawful by this section shall
32 constitute the basis for approach, search, seizure, arrest or detention.

33 3. Except as provided in subdivision four of this section, in any
34 criminal proceeding including proceedings pursuant to section 710.20 of
35 the criminal procedure law, no finding or determination of reasonable
36 cause to believe a crime has been committed shall be based solely on
37 evidence of the following facts and circumstances, either individually
38 or in combination with each other:

39 (a) the odor of cannabis;

40 (b) the odor of burnt cannabis;

41 (c) the possession of or the suspicion of possession of cannabis or
42 concentrated cannabis in the amounts authorized in this article;

43 (d) the possession of multiple containers of cannabis without evidence
44 of concentrated cannabis in the amounts authorized in this article;

45 (e) the presence of cash or currency in proximity to cannabis or
46 concentrated cannabis; or

47 (f) the planting, cultivating, harvesting, drying, processing or
48 possessing cultivated cannabis in accordance with section 222.15 of this
49 article.

50 4. Paragraph (b) of subdivision three of this section shall not apply
51 when a law enforcement officer is investigating whether a person is
52 operating a motor vehicle, vessel or snowmobile while impaired by drugs
53 or the combined influence of drugs or of alcohol and any drug or drugs
54 in violation of subdivision four or subdivision four-a of section eleven
55 hundred ninety-two of the vehicle and traffic law, or paragraph (e) of
56 subdivision two of section forty-nine-a of the navigation law, or para-

graph (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law. During such investigations, the odor of burnt cannabis shall not provide probable cause to search any area of a vehicle that is not readily accessible to the driver and reasonably likely to contain evidence relevant to the driver's condition.

§ 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. 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.

Notwithstanding any other section of 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 and home possession of cannabis.

1. Except as provided for in section forty-one of the cannabis law, and unless otherwise authorized by law or regulation, no person may:

(a) plant, cultivate, harvest, dry, process or possess more than three mature cannabis plants and three immature 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 three mature cannabis plants and three immature 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. No more than six mature and six immature cannabis plants may be cultivated, harvested, dried, or possessed within any private residence, or on the grounds of a person's private residence.

3. The personal cultivation of cannabis shall only be permitted within, or on the grounds of, a person's private residence.

4. Any mature or immature 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 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 within such person's private residence or on the grounds of such person's private residence. Such person shall take reasonable steps designed to ensure that such cultivated cannabis is in a secured place and not accessible to any person under the age of twenty-one.

5. Notwithstanding any law to the contrary, a person may lawfully possess up to five pounds of cannabis in their private residence or on the grounds of such person's private residence. Such person shall take reasonable steps designed to ensure that such cannabis is in a secured place not accessible to any person under the age of twenty-one.

6. 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

1 than an infraction and may be punishable by no more than a discretionary
2 civil penalty of two hundred dollars or less; and

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

7 A violation of this section, other than paragraph (a) of subdivision
8 six of this section, may be subject to a civil penalty of up to one
9 hundred twenty-five dollars per violation.

10 7. The office of cannabis management shall issue regulations for the
11 home cultivation of cannabis. The office of cannabis management shall
12 enact, and may enforce, regulations to regulate the actions and conduct
13 set forth in this section including requirements for, or restrictions
14 and prohibitions on, the use of any compressed flammable gas solvents
15 such as propane, butane, or other hexane gases for cannabis processing;
16 or other forms of home cultivation, manufacturing, or cannabinoid
17 production and processing, which the office determines poses a danger to
18 public safety; and to ensure the home cultivation of cannabis is for
19 personal use by an adult over the age of twenty-one in possession of
20 cannabis plants, and not utilized for unlicensed commercial or illicit
21 activity, provided any regulations issued by the office shall not
22 completely or essentially prohibit a person from engaging in the action
23 or conduct authorized by this section.

24 8. The office of cannabis management may issue guidance or advisories
25 for the education and promotion of safe practices for activities and
26 conduct authorized in subdivision one of this section.

27 9. Subdivisions one through five of this section shall not take effect
28 until such a time as the office of cannabis management has issued regu-
29 lations governing the home cultivation of cannabis. The office shall
30 issue rules and regulations governing the home cultivation of cannabis
31 by certified patients as defined in section three of the cannabis law,
32 no later than six months after the effective date of this article and
33 shall issue rules and regulations governing the home cultivation of
34 cannabis for cannabis consumers as defined by section three of the
35 cannabis law no later than eighteen months following the first author-
36 ized retail sale of adult-use cannabis products to a cannabis consumer.
37 § 222.20 Licensing of cannabis production and distribution; defense.

38 In any prosecution for an offense involving cannabis under this arti-
39 cle or an authorized local law, it is a defense that the defendant was
40 engaged in such activity in compliance with the cannabis law.

41 § 222.25 Unlawful possession of cannabis.

42 A person is guilty of unlawful possession of cannabis when he or she
43 knowingly and unlawfully possesses cannabis and such cannabis weighs
44 more than three ounces or concentrated cannabis and such concentrated
45 cannabis weighs more than twenty-four grams.

46 Unlawful possession of cannabis is a violation punishable by a fine of
47 not more than one hundred twenty-five dollars.

48 § 222.30 Criminal possession of cannabis in the third degree.

49 A person is guilty of criminal possession of cannabis in the third
50 degree when he or she knowingly and unlawfully possesses:

51 1. cannabis and such cannabis weighs more than sixteen ounces; or

52 2. concentrated cannabis and such concentrated cannabis weighs more
53 than five ounces.

54 Criminal possession of cannabis in the third degree is a class A
55 misdemeanor.

56 § 222.35 Criminal possession of cannabis in the second degree.

1 A person is guilty of criminal possession of cannabis in the second
2 degree when he or she knowingly and unlawfully possesses:

- 3 1. cannabis and such cannabis weighs more than five pounds; or
4 2. concentrated cannabis and such concentrated cannabis weighs more
5 than two pounds.

6 Criminal possession of cannabis in the second degree is a class E
7 felony.

8 § 222.40 Criminal possession of cannabis in the first degree.

9 A person is guilty of criminal possession of cannabis in the first
10 degree when he or she knowingly and unlawfully possesses:

- 11 1. cannabis and such cannabis weighs more than ten pounds; or
12 2. concentrated cannabis and such concentrated cannabis weighs more
13 than four pounds.

14 Criminal possession of cannabis in the first degree is a class D felo-
15 ny.

16 § 222.45 Unlawful sale of cannabis.

17 A person is guilty of unlawful sale of cannabis when he or she know-
18 ingly and unlawfully sells cannabis or concentrated cannabis.

19 Unlawful sale of cannabis is a violation punishable by a fine of not
20 more than two hundred fifty dollars.

21 § 222.50 Criminal sale of cannabis in the third degree.

22 A person is guilty of criminal sale of cannabis in the third degree
23 when:

- 24 1. he or she knowingly and unlawfully sells more than three ounces of
25 cannabis or more than twenty-four grams of concentrated cannabis; or
26 2. being twenty-one years of age or older, he or she knowingly and
27 unlawfully sells or gives, or causes to be given or sold, cannabis or
28 concentrated cannabis to a person less than twenty-one years of age;
29 except that in any prosecution under this subdivision, it is a defense
30 that the defendant was less than three years older than the person under
31 the age of twenty-one at the time of the offense. This subdivision shall
32 not apply to designated caregivers, practitioners, employees of a regis-
33 tered organization or employees of a designated caregiver facility
34 acting in compliance with article three of the cannabis law.

35 Criminal sale of cannabis in the third degree is a class A misdemea-
36 nor.

37 § 222.55 Criminal sale of cannabis in the second degree.

38 A person is guilty of criminal sale of cannabis in the second degree
39 when:

- 40 1. he or she knowingly and unlawfully sells more than sixteen ounces
41 of cannabis or more than five ounces of concentrated cannabis; or
42 2. being twenty-one years of age or older, he or she knowingly and
43 unlawfully sells or gives, or causes to be given or sold, more than
44 three ounces of cannabis or more than twenty-four grams of concentrated
45 cannabis to a person less than eighteen years of age. This subdivision
46 shall not apply to designated caregivers, practitioners, employees of a
47 registered organization or employees of a designated caregiver facility
48 acting in compliance with article three of the cannabis law.

49 Criminal sale of cannabis in the second degree is a class E felony.

50 § 222.60 Criminal sale of cannabis in the first degree.

51 A person is guilty of criminal sale of cannabis in the first degree
52 when he or she knowingly and unlawfully sells more than five pounds of
53 cannabis or more than two pounds of concentrated cannabis.

54 Criminal sale of cannabis in the first degree is a class D felony.

55 § 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, subparagraphs (iii) and (iv) as amended by chapter 23 of the laws of 2021, 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 section 221.05 [~~or~~] 221.10, 221.15, 221.20, 221.35, or 221.40 of the penal law; or

(iv) the conviction was for an offense defined in section 240.37 of the penal law; or

(v) 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

(vi) the conviction was for an offense defined in section 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~~] section 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.

§ 19-a. Paragraphs (a) and (b) of subdivision 1 of section 70.70 of the penal law, as added by chapter 738 of the laws of 2004, are amended to read as follows:

(a) "Felony drug offender" means a defendant who stands convicted of any felony, defined in article two hundred twenty or two hundred [~~twenty-one~~] twenty-two of this chapter other than a class A felony.

(b) "Second felony drug offender" means a second felony offender as that term is defined in subdivision one of section 70.06 of this article, who stands convicted of any felony, defined in article two hundred twenty or two hundred ~~[twenty-one]~~ twenty-two of this chapter other than a class A felony.

§ 19-b. Paragraphs (b) and (c) of subdivision 2 of section 70.70 of the penal law, paragraph (b) as amended by section 22 and paragraph (c) as amended by section 23 of part AAA of chapter 56 of the laws of 2009, are amended to read as follows:

(b) Probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred ~~[twenty-one]~~ twenty-two of this chapter to probation in accordance with the provisions of sections 60.04 and 65.00 of this chapter.

(c) Alternative definite sentence for class B, class C, class D, and class E felonies. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class C, class D or class E felony offense defined in article two hundred twenty or two hundred ~~[twenty-one]~~ twenty-two of this chapter, or a class B felony defined in article two hundred twenty of this chapter, other than the class B felony defined in section 220.48 of this chapter, as added by a chapter of the laws of two thousand nine the court may impose a definite sentence of imprisonment and fix a term of one year or less.

§ 19-c. The opening paragraph of paragraph (b) and paragraph (e) of subdivision 3 of section 70.70 of the penal law, the opening paragraph of paragraph (b) as amended by section 23 and paragraph (e) as added by section 25 of part AAA of chapter 56 of the laws of 2009, are amended to read as follows:

Except as provided in paragraphs (c), (d) and (e) of this subdivision, when the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender who stands convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred ~~[twenty-one]~~ twenty-two of this chapter the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms of such determinate sentence shall be imposed by the court in whole or half years as follows:

(e) Alternate definite sentence for class C, class D and class E felonies. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class C, class D or class E felony offense defined in article two hundred twenty or two hundred ~~[twenty-one]~~ twenty-two of this chapter, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

§ 19-d. The opening paragraph of paragraph (b) of subdivision 4 of section 70.70 of the penal law, as added by chapter 738 of the laws of 2004, is amended to read as follows:

When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug

1 offender whose prior felony conviction was a violent felony, who stands
2 convicted of a class B, class C, class D or class E felony offense
3 defined in article two hundred twenty or two hundred [~~twenty-one~~] twen-
4 ty-two of this chapter, the court shall impose a determinate sentence of
5 imprisonment. Such determinate sentence shall include as a part thereof
6 a period of post-release supervision in accordance with section 70.45 of
7 this article. The terms of such determinate sentence shall be imposed by
8 the court in whole or half years as follows:

9 § 20. Intentionally omitted.

10 § 21. Intentionally omitted.

11 § 22. Subdivision 1 of section 170.56 of the criminal procedure law,
12 as amended by chapter 360 of the laws of 1977, is amended to read as
13 follows:

14 1. Upon or after arraignment in a local criminal court upon an infor-
15 mation, a prosecutor's information or a misdemeanor complaint, where the
16 sole remaining count or counts charge a violation or violations of
17 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 222.10, 222.15,
18 222.25, 222.30, 222.45 or 222.50 of the penal law, or upon summons for a
19 nuisance offense under section sixty-five-c of the alcoholic beverage
20 control law and before the entry of a plea of guilty thereto or
21 commencement of a trial thereof, the court, upon motion of a defendant,
22 may order that all proceedings be suspended and the action adjourned in
23 contemplation of dismissal, or upon a finding that adjournment would not
24 be necessary or appropriate and the setting forth in the record of the
25 reasons for such findings, may dismiss in furtherance of justice the
26 accusatory instrument; provided, however, that the court may not order
27 such adjournment in contemplation of dismissal or dismiss the accusatory
28 instrument if: (a) the defendant has previously been granted such
29 adjournment in contemplation of dismissal, or (b) the defendant has
30 previously been granted a dismissal under this section, or (c) the
31 defendant has previously been convicted of any offense involving
32 controlled substances, or (d) the defendant has previously been
33 convicted of a crime and the district attorney does not consent or (e)
34 the defendant has previously been adjudicated a youthful offender on the
35 basis of any act or acts involving controlled substances and the
36 district attorney does not consent. Notwithstanding the limitations set
37 forth in this subdivision, the court may order that all proceedings be
38 suspended and the action adjourned in contemplation of dismissal based
39 upon a finding of exceptional circumstances. For purposes of this subdi-
40 vision, exceptional circumstances exist when, regardless of the ultimate
41 disposition of the case, the entry of a plea of guilty is likely to
42 result in severe or ongoing consequences, including, but not limited to,
43 potential or actual immigration consequences.

44 § 23. Intentionally omitted.

45 § 24. The criminal procedure law is amended by adding a new section
46 440.46-a to read as follows:

47 § 440.46-a Motion for resentence; persons convicted of certain marihuana
48 offenses.

49 1. When a person is serving a sentence for a conviction in this state,
50 whether by trial verdict or guilty plea, under former article two
51 hundred twenty-one of the penal law, and such persons' conduct as
52 alleged in the accusatory instrument and/or shown by the guilty plea or
53 trial verdict would not have been a crime under article two hundred
54 twenty-two of the penal law, had such article two hundred twenty-two
55 rather than former article two hundred twenty-one of the penal law been
56 in effect at the time of such conduct, then the chief administrative

1 judge of the state of New York shall, in accordance with this section,
2 automatically vacate, dismiss and expunge such conviction in accordance
3 with section 160.50 of this chapter, and the office of court adminis-
4 tration shall immediately notify the state division of criminal justice
5 services, state department of corrections and community supervision and
6 the appropriate local correctional facility which shall immediately
7 effectuate the appropriate relief. Such notification to the division of
8 criminal justice services shall also direct that such agency notify all
9 relevant police and law enforcement agencies of their duty to destroy
10 and/or mark records related to such case in accordance with section
11 160.50 of this chapter. Nothing in this section shall prevent a person
12 who believes his or her sentence is required by this section to be
13 vacated, dismissed and/or expunged from filing a petition with the court
14 to effectuate all appropriate relief.

15 2. (a) When a person is serving or has completed serving a sentence
16 for a conviction in this state, whether by trial verdict or guilty plea,
17 under former article two hundred twenty-one of the penal law, and such
18 person's conduct as alleged in the accusatory instrument and/or shown by
19 the guilty plea or trial verdict, or shown by other information: (i)
20 would not have been a crime under article two hundred twenty-two of the
21 penal law, had such article two hundred twenty-two rather than former
22 article two hundred twenty-one of the penal law been in effect at the
23 time of such conduct; or (ii) under such circumstances such person would
24 have been guilty of a lesser or potentially less onerous offense under
25 such article two hundred twenty-two than such former article two hundred
26 twenty-one of the penal law; then such person may petition the court of
27 conviction pursuant to this article for vacatur of such conviction.

28 (b) (i) Upon receiving a served and filed motion under paragraph (a)
29 of this subdivision, the court shall presume that any conviction by plea
30 was not knowing, voluntary and intelligent and that any conviction by
31 verdict and any accompanying sentence constitutes cruel and unusual
32 punishment under the state constitution if either has severe or ongoing
33 consequences, including but not limited to potential or actual immi-
34 gration consequences; and the court shall further presume that the
35 movant satisfies the criteria in such paragraph (a) and thereupon make
36 such finding and grant the motion to vacate such conviction on such
37 grounds in a written order unless the party opposing the motion proves,
38 by clear and convincing evidence, that the movant does not satisfy the
39 criteria to bring such motion. (ii) If the petition meets the criteria
40 in subparagraph (i) of paragraph (a) of this subdivision, the court
41 after affording the parties an opportunity to be heard and present
42 evidence, may substitute, unless it is not in the interests of justice
43 to do so, a conviction for an appropriate lesser offense under article
44 two hundred twenty-two of the penal law.

45 (c) In the event of any vacatur and/or substitution pursuant to this
46 subdivision, the office of court administration shall immediately notify
47 the state division of criminal justice services concerning such determi-
48 nation. Such notification to the division of criminal justice services
49 shall also direct that such agency notify all relevant police and law
50 enforcement agencies of their duty to destroy and/or mark records
51 related to such case in accordance with section 160.50 of this chapter
52 or, where conviction for a crime is substituted pursuant to this subdi-
53 vision, update such agencies' records accordingly.

54 3. Under no circumstances may substitution under this section result
55 in the imposition of a term of imprisonment or sentencing term, obli-
56 gation or condition that is in any way either harsher than the original

1 sentence or harsher than the sentence authorized for any substituted
2 lesser offense.

3 4. (a) If the judge who originally sentenced the movant for such
4 offense is not reasonably available, then the presiding judge for such
5 court shall designate another judge authorized to act in the appropriate
6 jurisdiction to determine the petition or application.

7 (b) Unless requested by the movant, no hearing is necessary to grant
8 an application filed under subdivision two of this section.

9 (c) When a felony conviction is vacated pursuant to this section and a
10 lesser offense that is a misdemeanor or violation is substituted for
11 such conviction, such lesser offense shall be considered a misdemeanor
12 or violation, as the case may be, for all purposes. When a misdemeanor
13 conviction is vacated pursuant to this section and a lesser offense that
14 is a violation is substituted for such conviction, such lesser offense
15 shall be considered a violation for all purposes.

16 (d) Nothing in this section is intended to or shall diminish or abro-
17 gate any rights or remedies otherwise available to a defendant, peti-
18 tioner or applicant. Relief under this section is available notwith-
19 standing that the judgment was for a violation of former sections
20 221.05, 221.10, 221.15, 221.20, 221.35 or 221.40 of the penal law in
21 effect prior to the effective date of this paragraph and that the under-
22 lying action or proceeding has already been vacated, dismissed and
23 expunged.

24 (e) Nothing in this and related sections of law is intended to dimin-
25 ish or abrogate the finality of judgments in any case not falling within
26 the purview of this section.

27 (f) The provisions of this section shall be available, used and
28 applied in parallel fashion by the family court and the criminal courts
29 to juvenile delinquency adjudications, adolescent offender adjudications
30 and youthful offender adjudications.

31 (g) The chief administrator of the courts shall promulgate all neces-
32 sary rules and make available all necessary forms to enable the filing
33 of the petitions and applications provided in this section no later than
34 sixty days following the effective date of this section. All sentences
35 eligible for automatic vacatur, dismissal and expungement pursuant to
36 subdivision one of this section shall be identified and the required
37 entities notified within one year of the effective date of this section.

38 § 25. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
39 procedure law, as amended by chapter 37 of the laws of 2014, is amended
40 to read as follows:

41 (c) Criminal possession of a controlled substance in the seventh
42 degree as defined in section 220.03 of the penal law, criminal
43 possession of a controlled substance in the fifth degree as defined in
44 section 220.06 of the penal law, criminal possession of a controlled
45 substance in the fourth degree as defined in section 220.09 of the penal
46 law, criminal possession of a controlled substance in the third degree
47 as defined in section 220.16 of the penal law, criminal possession of a
48 controlled substance in the second degree as defined in section 220.18
49 of the penal law, criminal possession of a controlled substance in the
50 first degree as defined in section 220.21 of the penal law, criminal
51 sale of a controlled substance in the fifth degree as defined in section
52 220.31 of the penal law, criminal sale of a controlled substance in the
53 fourth degree as defined in section 220.34 of the penal law, criminal
54 sale of a controlled substance in the third degree as defined in section
55 220.39 of the penal law, criminal sale of a controlled substance in the
56 second degree as defined in section 220.41 of the penal law, criminal

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

28 § 26. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and
29 9 of section 1310 of the civil practice law and rules, paragraphs (b)
30 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990
31 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,
32 are amended to read as follows:

33 (b) on three or more occasions, engaging in conduct constituting a
34 violation of any of the felonies defined in section 220.09, 220.16,
35 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[~~r~~] ~~or~~ 220.43 [~~or 221.55~~]
36 of the penal law, which violations do not constitute a single criminal
37 offense as defined in subdivision one of section 40.10 of the criminal
38 procedure law, or a single criminal transaction, as defined in paragraph
39 (a) of subdivision two of section 40.10 of the criminal procedure law,
40 and at least one of which resulted in a conviction of such offense, or
41 where the accusatory instrument charges one or more of such felonies,
42 conviction upon a plea of guilty to a felony for which such plea is
43 otherwise authorized by law; or

44 (c) a conviction of a person for a violation of section 220.09,
45 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-~~
46 ~~nal defendant for a violation of section 221.30 of the penal law,~~] or
47 where the accusatory instrument charges any such felony, conviction upon
48 a plea of guilty to a felony for which the plea is otherwise authorized
49 by law, together with evidence which: (i) provides substantial indicia
50 that the defendant used the real property to engage in a continual,
51 ongoing course of conduct involving the unlawful mixing, compounding,
52 manufacturing, warehousing, or packaging of controlled substances [~~or~~
53 ~~where the conviction is for a violation of section 221.30 of the penal~~
54 ~~law, marijuana,~~] as part of an illegal trade or business for gain; and
55 (ii) establishes, where the conviction is for possession of a controlled
56 substance [~~or where the conviction is for a violation of section 221.30~~

1 ~~of the penal law, marijuana~~, that such possession was with the intent
2 to sell it.

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

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

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

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

35 Felonies involving: assault, aggravated assault and reckless endanger-
36 ment pursuant to article one hundred twenty; vehicular manslaughter,
37 manslaughter and murder pursuant to article one hundred twenty-five; sex
38 offenses pursuant to article one hundred thirty; unlawful imprisonment,
39 kidnapping or coercion pursuant to article one hundred thirty-five;
40 criminal trespass and burglary pursuant to article one hundred forty;
41 criminal mischief, criminal tampering and tampering with a consumer
42 product pursuant to article one hundred forty-five; arson pursuant to
43 article one hundred fifty; larceny and offenses involving theft pursuant
44 to article one hundred fifty-five; offenses involving computers pursuant
45 to article one hundred fifty-six; robbery pursuant to article one
46 hundred sixty; criminal possession of stolen property pursuant to arti-
47 cle one hundred sixty-five; forgery and related offenses pursuant to
48 article one hundred seventy; involving false written statements pursuant
49 to article one hundred seventy-five; commercial bribing and commercial
50 bribe receiving pursuant to article one hundred eighty; criminal imper-
51 sonation and scheme to defraud pursuant to article one hundred ninety;
52 bribery involving public servants and related offenses pursuant to arti-
53 cle two hundred; perjury and related offenses pursuant to article two
54 hundred ten; tampering with a witness, intimidating a victim or witness
55 and tampering with physical evidence pursuant to article two hundred
56 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. Intentionally omitted.

§ 33-a. Subdivision 1 of section 1227 of the vehicle and traffic law, as amended by section 3 of part F of chapter 60 of the laws of 2005, is amended to read as follows:

1. The drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction.

The provisions of this section shall not be deemed to prohibit the drinking of alcoholic beverages, the consumption of cannabis by means other than burning, or the possession of an open container containing an alcoholic beverage by passengers in passenger vehicles operated pursuant to a certificate or permit issued by the department of transportation or the United States department of transportation. Furthermore, the provisions of this section shall not be deemed to prohibit the possession of wine which is: (a) resealed in accordance with the provisions of subdivision four of section eighty-one of the alcoholic beverage control law; and (b) is transported in the vehicle's trunk or is transported behind the last upright seat or in an area not normally occupied by the driver or passenger in a motor vehicle that is not equipped with a trunk.

§ 34. 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

1 section three hundred twelve thereof), eighteen, nineteen, twenty
2 (except as otherwise provided in section four hundred eighty-two there-
3 of), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four,
4 twenty-six, twenty-eight (except as otherwise provided in section eleven
5 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
6 nine-B, thirty-one (except as otherwise provided in section fourteen
7 hundred twenty-one thereof), thirty-three and thirty-three-A of this
8 chapter shall be deposited daily in one account with such responsible
9 banks, banking houses or trust companies as may be designated by the
10 comptroller, to the credit of the comptroller. Such an account may be
11 established in one or more of such depositories. Such deposits shall be
12 kept separate and apart from all other money in the possession of the
13 comptroller. The comptroller shall require adequate security from all
14 such depositories. Of the total revenue collected or received under such
15 articles of this chapter, the comptroller shall retain in the comp-
16 troller's hands such amount as the commissioner may determine to be
17 necessary for refunds or reimbursements under such articles of this
18 chapter out of which amount the comptroller shall pay any refunds or
19 reimbursements to which taxpayers shall be entitled under the provisions
20 of such articles of this chapter. The commissioner and the comptroller
21 shall maintain a system of accounts showing the amount of revenue
22 collected or received from each of the taxes imposed by such articles.
23 The comptroller, after reserving the amount to pay such refunds or
24 reimbursements, shall, on or before the tenth day of each month, pay
25 into the state treasury to the credit of the general fund all revenue
26 deposited under this section during the preceding calendar month and
27 remaining to the comptroller's credit on the last day of such preceding
28 month, (i) except that the comptroller shall pay to the state department
29 of social services that amount of overpayments of tax imposed by article
30 twenty-two of this chapter and the interest on such amount which is
31 certified to the comptroller by the commissioner as the amount to be
32 credited against past-due support pursuant to subdivision six of section
33 one hundred seventy-one-c of this article, (ii) and except that the
34 comptroller shall pay to the New York state higher education services
35 corporation and the state university of New York or the city university
36 of New York respectively that amount of overpayments of tax imposed by
37 article twenty-two of this chapter and the interest on such amount which
38 is certified to the comptroller by the commissioner as the amount to be
39 credited against the amount of defaults in repayment of guaranteed
40 student loans and state university loans or city university loans pursu-
41 ant to subdivision five of section one hundred seventy-one-d and subdivi-
42 sion six of section one hundred seventy-one-e of this article, (iii)
43 and except further that, notwithstanding any law, the comptroller shall
44 credit to the revenue arrearage account, pursuant to section
45 ninety-one-a of the state finance law, that amount of overpayment of tax
46 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
47 or thirty-three of this chapter, and any interest thereon, which is
48 certified to the comptroller by the commissioner as the amount to be
49 credited against a past-due legally enforceable debt owed to a state
50 agency pursuant to paragraph (a) of subdivision six of section one
51 hundred seventy-one-f of this article, provided, however, he shall cred-
52 it to the special offset fiduciary account, pursuant to section ninety-
53 one-c of the state finance law, any such amount creditable as a liabil-
54 ity as set forth in paragraph (b) of subdivision six of section one
55 hundred seventy-one-f of this article, (iv) and except further that the
56 comptroller shall pay to the city of New York that amount of overpayment

1 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
2 thirty-B or thirty-three of this chapter and any interest thereon that
3 is certified to the comptroller by the commissioner as the amount to be
4 credited against city of New York tax warrant judgment debt pursuant to
5 section one hundred seventy-one-1 of this article, (v) and except
6 further that the comptroller shall pay to a non-obligated spouse that
7 amount of overpayment of tax imposed by article twenty-two of this chap-
8 ter and the interest on such amount which has been credited pursuant to
9 section one hundred seventy-one-c, one hundred seventy-one-d, one
10 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
11 ty-one-1 of this article and which is certified to the comptroller by
12 the commissioner as the amount due such non-obligated spouse pursuant to
13 paragraph six of subsection (b) of section six hundred fifty-one of this
14 chapter; and (vi) the comptroller shall deduct a like amount which the
15 comptroller shall pay into the treasury to the credit of the general
16 fund from amounts subsequently payable to the department of social
17 services, the state university of New York, the city university of New
18 York, or the higher education services corporation, or the revenue
19 arrearage account or special offset fiduciary account pursuant to
20 section ninety-one-a or ninety-one-c of the state finance law, as the
21 case may be, whichever had been credited the amount originally withheld
22 from such overpayment, and (vii) with respect to amounts originally
23 withheld from such overpayment pursuant to section one hundred seventy-
24 one-1 of this article and paid to the city of New York, the comptroller
25 shall collect a like amount from the city of New York.

26 § 36. Intentionally omitted.

27 § 37. Section 490 of the tax law, as added by chapter 90 of the laws
28 of 2014, is amended to read as follows:

29 § 490. [~~Definitions~~] Excise tax on medical cannabis. 1. (a) [~~All~~
30 ~~definitions of terms applicable to title five-A of article thirty-three~~
31 ~~of the public health law shall apply to this article.~~] For purposes of
32 this article, the terms "medical cannabis," "registered organization,"
33 "certified patient," and "designated caregiver" shall have the same
34 definitions as in section three of the cannabis law.

35 (b) As used in this section, where not otherwise specifically defined
36 and unless a different meaning is clearly required "gross receipt" means
37 the amount received in or by reason of any sale, conditional or other-
38 wise, of medical [~~marihuana~~] cannabis or in or by reason of the furnish-
39 ing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~]
40 cannabis provided by a registered organization to a certified patient or
41 designated caregiver. Gross receipt is expressed in money, whether paid
42 in cash, credit or property of any kind or nature, and shall be deter-
43 mined without any deduction therefrom on account of the cost of the
44 service sold or the cost of materials, labor or services used or other
45 costs, interest or discount paid, or any other expenses whatsoever.
46 "Amount received" for the purpose of the definition of gross receipt, as
47 the term gross receipt is used throughout this article, means the amount
48 charged for the provision of medical [~~marihuana~~] cannabis.

49 2. There is hereby imposed an excise tax on the gross receipts from
50 the sale of medical [~~marihuana~~] cannabis by a registered organization to
51 a certified patient or designated caregiver, to be paid by the regis-
52 tered organization, at the rate of seven percent. The tax imposed by
53 this article shall be charged against and be paid by the registered
54 organization and shall not be added as a separate charge or line item on
55 any sales slip, invoice, receipt or other statement or memorandum of the
56 price given to the retail customer.

1 3. The commissioner may make, adopt and amend rules, regulations,
2 procedures and forms necessary for the proper administration of this
3 article.

4 4. Every registered organization that makes sales of medical [~~marihua-~~
5 ~~na~~] cannabis subject to the tax imposed by this article shall, on or
6 before the twentieth date of each month, file with the commissioner a
7 return on forms to be prescribed by the commissioner, showing its
8 receipts from the retail sale of medical [~~marihuana~~] cannabis during the
9 preceding calendar month and the amount of tax due thereon. Such returns
10 shall contain such further information as the commissioner may require.
11 Every registered organization required to file a return under this
12 section shall, at the time of filing such return, pay to the commission-
13 er the total amount of tax due on its retail sales of medical [~~marihua-~~
14 ~~na~~] cannabis for the period covered by such return. If a return is not
15 filed when due, the tax shall be due on the day on which the return is
16 required to be filed.

17 5. Whenever the commissioner shall determine that any moneys received
18 under the provisions of this article were paid in error, he may cause
19 the same to be refunded, with interest, in accordance with such rules
20 and regulations as he may prescribe, except that no interest shall be
21 allowed or paid if the amount thereof would be less than one dollar.
22 Such interest shall be at the overpayment rate set by the commissioner
23 pursuant to subdivision twenty-sixth of section one hundred seventy-one
24 of this chapter, or if no rate is set, at the rate of six percent per
25 annum, from the date when the tax, penalty or interest to be refunded
26 was paid to a date preceding the date of the refund check by not more
27 than thirty days. Provided, however, that for the purposes of this
28 subdivision, any tax paid before the last day prescribed for its payment
29 shall be deemed to have been paid on such last day. Such moneys received
30 under the provisions of this article which the commissioner shall deter-
31 mine were paid in error, may be refunded out of funds in the custody of
32 the comptroller to the credit of such taxes provided an application
33 therefor is filed with the commissioner within two years from the time
34 the erroneous payment was made.

35 6. The provisions of article twenty-seven of this chapter shall apply
36 to the tax imposed by this article in the same manner and with the same
37 force and effect as if the language of such article had been incorpo-
38 rated in full into this section and had expressly referred to the tax
39 imposed by this article, except to the extent that any provision of such
40 article is either inconsistent with a provision of this article or is
41 not relevant to this article.

42 7. All taxes, interest and penalties collected or received by the
43 commissioner under this article shall be deposited and disposed of
44 pursuant to the provisions of section one hundred seventy-one-a of this
45 chapter, provided that an amount equal to one hundred percent collected
46 under this article less any amount determined by the commissioner to be
47 reserved by the comptroller for refunds or reimbursements shall be paid
48 by the comptroller to the credit of the medical [~~marihuana~~] cannabis
49 trust fund established by section eighty-nine-h of the state finance
50 law.

51 8. A registered organization that dispenses medical [~~marihuana~~] canna-
52 bis shall provide to the department information on where the medical
53 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]
54 cannabis was manufactured. A registered organization that obtains [~~mari-~~
55 ~~huana~~] cannabis from another registered organization shall obtain from

1 such registered organization information on where the medical [~~marihua-~~
2 ~~na~~] cannabis was manufactured.

3 § 38. Section 491 of the tax law, as added by chapter 90 of the laws
4 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60
5 of the laws of 2016, is amended to read as follows:

6 § 491. Returns to be secret. 1. Except in accordance with proper judi-
7 cial order or as in this section or otherwise provided by law, it shall
8 be unlawful for the commissioner, any officer or employee of the depart-
9 ment, or any officer or person who, pursuant to this section, is permit-
10 ted to inspect any return or report or to whom a copy, an abstract or a
11 portion of any return or report is furnished, or to whom any information
12 contained in any return or report is furnished, or any person engaged or
13 retained by such department on an independent contract basis or any
14 person who in any manner may acquire knowledge of the contents of a
15 return or report filed pursuant to this article to divulge or make known
16 in any manner the contents or any other information relating to the
17 business of a distributor, owner or other person contained in any return
18 or report required under this article. The officers charged with the
19 custody of such returns or reports shall not be required to produce any
20 of them or evidence of anything contained in them in any action or
21 proceeding in any court, except on behalf of the state, [~~the state~~
22 ~~department of health~~] office of cannabis management, or the commissioner
23 in an action or proceeding under the provisions of this chapter or on
24 behalf of the state or the commissioner in any other action or proceed-
25 ing involving the collection of a tax due under this chapter to which
26 the state or the commissioner is a party or a claimant or on behalf of
27 any party to any action or proceeding under the provisions of this arti-
28 cle, when the returns or the reports or the facts shown thereby are
29 directly involved in such action or proceeding, or in an action or
30 proceeding relating to the regulation or taxation of medical [~~marihuana~~
31 cannabis] on behalf of officers to whom information shall have been
32 supplied as provided in subdivision two of this section, in any of which
33 events the court may require the production of, and may admit in
34 evidence so much of said returns or reports or of the facts shown there-
35 by as are pertinent to the action or proceeding and no more. Nothing
36 herein shall be construed to prohibit the commissioner, in his or her
37 discretion, from allowing the inspection or delivery of a certified copy
38 of any return or report filed under this article or of any information
39 contained in any such return or report by or to a duly authorized offi-
40 cer or employee of the [~~state department of health~~] office of cannabis
41 management; or by or to the attorney general or other legal represen-
42 tatives of the state when an action shall have been recommended or
43 commenced pursuant to this chapter in which such returns or reports or
44 the facts shown thereby are directly involved; or the inspection of the
45 returns or reports required under this article by the comptroller or
46 duly designated officer or employee of the state department of audit and
47 control, for purposes of the audit of a refund of any tax paid by a
48 registered organization or other person under this article; nor to
49 prohibit the delivery to a registered organization, or a duly authorized
50 representative of such registered organization, a certified copy of any
51 return or report filed by such registered organization pursuant to this
52 article, nor to prohibit the publication of statistics so classified as
53 to prevent the identification of particular returns or reports and the
54 items thereof. This section shall also not be construed to prohibit the
55 disclosure, for tax administration purposes, to the division of the
56 budget and the office of the state comptroller, of information aggre-

gated 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. Imposition of tax.

494. Registration and renewal.

495. Returns and payment of tax.

496. Records to be kept; penalties.

496-a. Returns to be secret.

496-b. Administrative provisions.

496-c. Illicit cannabis penalty.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Adult-use cannabis product" or "adult-use cannabis" has the same meaning as the term is 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 product as defined in section three of the cannabis law.

(b) "Cannabis" means all parts of the a plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. For purposes of this article, cannabis does not include medical cannabis or cannabinoid hemp product as defined in section three of the cannabis law.

(c) "Cannabis edible product" means a product, containing either cannabis or concentrated cannabis and other ingredients, intended for use or consumption through ingestion, including sublingual or oral absorption.

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

(e) "Concentrated cannabis" has the same meaning as the term is defined in section three of the cannabis law.

(f) "Distributor" has the same meaning as the term is defined in section three of the cannabis law.

(g) "Illicit cannabis" means and includes cannabis flower, concentrated cannabis, cannabis edible product and cannabis plant on which any tax required to have been paid under this chapter has not been paid. Illicit cannabis shall not include any cannabis lawfully possessed in accordance with the cannabis law or penal law.

(h) "Cannabis plant" means cannabis that has not been harvested, or undergone processing, drying or curing.

(i) "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.

(j) "Sale" means any transfer of title, possession or both, exchange or barter, rental, lease or license to use or consume, conditional, or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefor.

(k) "Total THC" has the same meaning as the term defined in section three of the cannabis law.

§ 493. Imposition of tax. (a) There is hereby imposed a tax on adult-use cannabis products sold by a distributor to a person who sells adult-use cannabis products at retail at the following rates:

(1) cannabis flower at the rate of five-tenths of one cent per milligram of the amount of total THC, as reflected on the product label;

(2) concentrated cannabis at the rate of eight-tenths of one cent per milligram of the amount of total THC, as reflected on the product label; and

1 (3) cannabis edible product at the rate of three cents per milligram
2 of the amount of total THC, as reflected on the product label. This tax
3 shall accrue at the time of such sale or transfer. Where a person who
4 distributes adult-use cannabis is licensed under the cannabis law as a
5 microbusiness or registered organization, such person shall be liable
6 for the tax, and such tax shall accrue at the time of the retail sale.

7 (b) In addition to any other tax imposed by this chapter or other law,
8 there is hereby imposed a tax of nine percent of the amount charged for
9 the sale or transfer of adult-use cannabis products to a retail customer
10 by a person who sells adult-use cannabis products at retail. This tax
11 is imposed on the person who sells adult-use cannabis at retail and
12 shall accrue at the time of such sale or transfer.

13 (c) In addition to the taxes imposed by subdivisions (a) and (b) of
14 this section, there is hereby imposed a tax on the sale or transfer of
15 adult-use cannabis products to a retail customer by a person who sells
16 adult-use cannabis products at retail at the rate of four percent of the
17 amount charged by such person for such adult-use cannabis product,
18 which tax shall accrue at the time of such sale or transfer. The tax
19 imposed by this subdivision is imposed on a person who sells adult-use
20 cannabis products at retail, and shall be paid to the commissioner in
21 trust for and on account of a city having a population of a million or
22 more, and counties (other than counties wholly within such a city),
23 towns, villages, and cities with a population of less than a million in
24 which a retail dispensary is located.

25 (d) The taxes imposed by this section shall not apply to sales of
26 adult-use cannabis to a person holding a cannabis research license under
27 section thirty-nine of the cannabis law.

28 § 494. Registration and renewal. (a) (i) Every distributor on whom
29 tax is imposed under this article and every person who sells adult-use
30 cannabis products at retail must file with the commissioner a properly
31 completed application for a certificate of registration before engaging
32 in business. An application for a certificate of registration must be
33 submitted electronically, on a form prescribed by the commissioner, and
34 must be accompanied by a non-refundable application fee of six hundred
35 dollars. A certificate of registration shall not be assignable or trans-
36 ferable and shall be destroyed immediately upon such person ceasing to
37 do business as specified in such certificate, or in the event that such
38 business never commenced.

39 (ii) Provided, however, that the commissioner shall refund or credit
40 an application fee paid with respect to the registration of an adult-use
41 cannabis business in this state if, prior to the beginning of the period
42 with respect to which such registration relates, the certificate of
43 registration described in subparagraph (i) of this paragraph is returned
44 to the department or, if such certificate has been destroyed, the opera-
45 tor of such business satisfactorily accounts to the commissioner for the
46 missing certificate, but such business may not sell adult-use cannabis
47 products in this state during such period, unless it is re-registered.
48 Such refund or credit shall be deemed a refund of tax paid in error,
49 provided, however, no interest shall be allowed or paid on any such
50 refund.

51 (b) (1) The commissioner shall refuse to issue a certificate of regis-
52 tration to any applicant and shall revoke the certificate of registra-
53 tion of any such person who does not possess a valid license from the
54 office of cannabis management. The commissioner may refuse to issue a
55 certificate of registration to any applicant where such applicant:

1 (i) has a past-due liability as that term is defined in section one
2 hundred seventy-one-v of this chapter;

3 (ii) has had a certificate of registration under this article, a
4 license from the office of cannabis management, or any license or regis-
5 tration provided for in this chapter revoked or suspended where such
6 revocation or suspension was in effect on the date the application was
7 filed or ended within one year from the date on which such application
8 was filed;

9 (iii) has been convicted of a crime provided for in this chapter with-
10 in one year from the date on which such application was filed or the
11 certificate was issued, as applicable;

12 (iv) willfully fails to file a report or return required by this arti-
13 cle;

14 (v) willfully files, causes to be filed, gives or causes to be given a
15 report, return, certificate or affidavit required by this article which
16 is false; or

17 (vi) willfully fails to collect or truthfully account for or pay over
18 any tax imposed by this article.

19 (2) In addition to the grounds for revocation in paragraph (1) of this
20 subdivision, where a person who holds a certificate of registration is
21 determined to have possessed or sold illicit cannabis: (1) such regis-
22 tration may be revoked for a period of up to one year for the first such
23 possession or sale; (2) for a second such possession or sale within a
24 period of five years by such person, the registration of such person may
25 be revoked for a period of up to three years; (3) for a third such
26 possession or sale within a period of up to five years by such person,
27 the registration of such person may be revoked for a period of five
28 years. A certificate of registration may be revoked pursuant to this
29 paragraph immediately upon such person's receipt of written notice of
30 revocation from the commissioner.

31 (c) A certificate of registration shall be valid for the period speci-
32 fied thereon, unless earlier suspended or revoked. Upon the expiration
33 of the term stated on a certificate of registration, such certificate
34 shall be null and void.

35 (d) Every holder of a certificate of registration must notify the
36 commissioner of changes to any of the information stated on the certifi-
37 cate, or of changes to any information contained in the application for
38 the certificate of registration. Such notification must be made on or
39 before the last day of the month in which a change occurs and must be
40 made electronically on a form prescribed by the commissioner.

41 (e) Every holder of a certificate of registration under this article
42 shall be required to reapply prior to such certificate's expiration,
43 during a reapplication period established by the commissioner. Such
44 reapplication period shall not occur more frequently than every two
45 years. Such reapplication shall be subject to the same requirements and
46 conditions as an initial application, including grounds for refusal and
47 the payment of the application fee.

48 (f) Any person who is required to obtain a certificate of registration
49 under subdivision (a) of this section who possesses adult-use cannabis
50 products without such certificate shall be subject to a penalty of five
51 hundred dollars for each month or part thereof during which adult-use
52 cannabis products are possessed without such certificate, not to exceed
53 ten thousand dollars in the aggregate.

54 § 495. Returns and payment of tax. (a) Every person on whom tax is
55 imposed under this article shall, on or before the twentieth day of the
56 month following each quarterly period ending on the last day of Febru-

ary, May, August, and November, respectively, file electronically with the commissioner a return on forms to be prescribed by the commissioner, showing the total amount of tax due in such quarterly period, and including such other information as the commissioner may require.

(b) Every person required to file a return under this section shall, at the time of filing such return, pay electronically 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.

§ 496. Records to be kept; penalties. (a) Records to be kept. Every distributor on whom tax is imposed under this article and every person who sells adult-use cannabis products at retail shall maintain complete and accurate records in such form as the commissioner may require including, but not limited to, such items as the total THC content of the adult-use cannabis products sold to or produced by such person; complete records of every retail sale of adult-use cannabis, 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) Penalties. In addition to any other penalty provided in this article or otherwise imposed by law, every distributor on whom tax is imposed under this article and every person who sells adult-use cannabis products at retail 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 each 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-a. Returns to be 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 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 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

1 proceeding and no more. Nothing herein shall be construed to prohibit
2 the commissioner, in his or her discretion, from allowing the inspection
3 or delivery of a certified copy of any return or report filed under this
4 article or of any information contained in any such return or report by
5 or to a duly authorized officer or employee of the office of cannabis
6 management; or by or to the attorney general or other legal represen-
7 tatives of the state when an action shall have been recommended or
8 commenced pursuant to this chapter in which such returns or reports or
9 the facts shown thereby are directly involved; or the inspection of the
10 returns or reports required under this article by the comptroller or
11 duly designated officer or employee of the state department of audit and
12 control, for purposes of the audit of a refund of any tax paid by any
13 person under this article; nor to prohibit the delivery to such person
14 or a duly authorized representative of such person, a certified copy of
15 any return or report filed by such person pursuant to this article, nor
16 to prohibit the publication of statistics so classified as to prevent
17 the identification of particular returns or reports and the items there-
18 of. This section shall also not be construed to prohibit the disclosure,
19 for tax administration purposes, to the division of the budget and the
20 office of the state comptroller, of information aggregated from the
21 returns filed by all persons subject to the taxes imposed by the arti-
22 cle, whether the number of such persons is one or more. Provided
23 further that, notwithstanding the provisions of this subdivision, the
24 commissioner may, in his or her discretion, permit the proper officer of
25 any county entitled to receive any distribution of the monies received
26 on account of the tax imposed by subdivision (c) of section four hundred
27 ninety-three of this article, or the authorized representative of such
28 officer, to inspect any return filed under this article, or may furnish
29 to such officer or the officer's authorized representative an abstract
30 of any such return or supply such officer or representative with infor-
31 mation concerning an item contained in any such return, or disclosed by
32 any investigation of tax liability under this article.

33 (b) The commissioner, in his or her discretion, may permit the appro-
34 prate officers of any other state that regulates or taxes cannabis or
35 the duly authorized representatives of any such officers, to inspect
36 returns or reports made pursuant to this article, or may furnish to such
37 other officers, or their duly authorized representatives, a copy of any
38 such return or report or an abstract of the information therein
39 contained, or any portion thereof, or may supply any such officers or
40 such representatives with information relating to the business of a
41 person making returns or reports hereunder solely for purposes of tax
42 administration. The commissioner may refuse to supply information pursu-
43 ant to this subdivision to the officers of any other state if the stat-
44 utes of the state represented by such officers do not grant substantial-
45 ly similar privileges to the commissioner, but such refusal shall not be
46 mandatory. Information shall not be supplied to the officers of any
47 state that regulates or taxes cannabis, or their duly authorized repre-
48 sentatives of any such officers, unless such officer or other represen-
49 tatives shall agree not to divulge or make known in any manner the
50 information so supplied, but such officers may transmit such information
51 to their employees or legal representatives when necessary, who in turn
52 shall be subject to the same restrictions as those hereby imposed upon
53 such officer or other representatives.

54 (c)(1) Any officer or employee of the state who willfully violates the
55 provisions of subdivision (a) or (b) of this section shall be dismissed

1 from office and be incapable of holding any public office in this state
2 for a period of five years thereafter.

3 (2) For criminal penalties, see article thirty-seven of this chapter.

4 § 496-b. Administrative provisions. (a) The provisions of article
5 twenty-seven of this chapter shall apply to the taxes imposed by section
6 four hundred ninety-three of this article in the same manner and with
7 the same force and effect as if the language of such article had been
8 incorporated in full into this section and had expressly referred to the
9 tax imposed by this article, except to the extent that any provision of
10 such article is either inconsistent with a provision of this article or
11 is not relevant to this article.

12 (b)(1) All taxes, interest, and penalties collected or received by the
13 commissioner under this article shall be deposited and disposed of
14 pursuant to the provisions of section one hundred seventy-one-a of this
15 chapter, provided that an amount equal to one hundred percent collected
16 under this article less any amount determined by the commissioner to be
17 reserved by the comptroller for refunds or reimbursements shall be paid
18 by the comptroller to the credit of the cannabis revenue fund estab-
19 lished by section ninety-nine-ii of the state finance law. Of the total
20 revenue collected or received under this article, the comptroller shall
21 retain such amount as the commissioner may determine to be necessary for
22 refunds. The commissioner is authorized and directed to deduct from the
23 registration fees under subdivision (a) of section four hundred ninety-
24 four of this article, before deposit into the cannabis revenue fund
25 designated by the comptroller, a reasonable amount necessary to effectuate
26 refunds of appropriations of the department to reimburse the depart-
27 ment for the costs incurred to administer, collect, and distribute the
28 taxes imposed by this article.

29 (2) All taxes, interest, and penalties collected or received by the
30 commissioner under subdivision (c) of section four hundred ninety-three
31 of this article shall be deposited and disposed of pursuant to the
32 provisions of section one hundred seventy-one-a of this chapter,
33 provided that an amount equal to one hundred percent collected under
34 such subdivision (c), less any amount determined by the commissioner to
35 be reserved by the comptroller for refunds or reimbursements, shall be
36 paid to the comptroller and the commissioner shall certify to the comp-
37 troller the amount of tax, penalties, and interest attributable to
38 retail sales within a city with a population of a million or more and
39 counties (other than a county wholly within such city). Such amount will
40 be distributed by the comptroller to such city and such counties. Such
41 counties shall be entitled to retain twenty-five percent of the monies
42 so distributed. Such counties shall distribute the remaining seventy-
43 five percent of such monies to the towns, villages, and cities within
44 such county in which a retail dispensary is located in proportion to the
45 sales of adult-use cannabis products by the retail dispensaries in such
46 towns, villages and cities as reported by a seed-to-sale system,
47 provided, however, where a retail dispensary is located in a village
48 within a town that both permit cannabis retail sales, then the county
49 shall distribute the monies attributable to such retail dispensary to
50 such town and village in such proportion as may be agreed upon by the
51 elective governing body of such town and of such village or, in the
52 absence of such an agreement, shall evenly divide such monies between
53 such town and village. Such counties shall distribute the monies
54 received for each quarter ending on the last day of February, May,
55 August or November to such towns, villages and cities no later than the
56 thirtieth day after receipt of such monies from the comptroller.

§ 496-c. Illicit cannabis penalty. (a) In addition to any other civil or criminal penalties that may apply, any person knowingly in possession of or knowingly having control over illicit cannabis, as defined in section four hundred ninety-two of this article, after notice and an opportunity for a hearing, shall be liable for a civil penalty of not less than two hundred dollars per ounce of illicit cannabis flower, five dollars per milligram of the total weight of any illicit cannabis edible product, fifty dollars per gram of the total weight of any product containing illicit cannabis concentrate, and five hundred dollars per illicit cannabis plant, but not to exceed four hundred dollars per ounce of illicit cannabis flower, ten dollars per milligram of the total weight of any illicit cannabis edible product, one hundred dollars per gram of the total weight of any product containing illicit cannabis concentrate, and one thousand dollars per illicit cannabis plant for a first violation, and for a second and subsequent violation within three years following a prior violation shall be liable for a civil penalty of not less than four hundred dollars per ounce of illicit cannabis flower, ten dollars per milligram of the total weight of any illicit cannabis edible product, one hundred dollars per gram of the total weight of any product containing illicit cannabis concentrate, and one thousand dollars per illicit cannabis plant, but not to exceed five hundred dollars per ounce of illicit cannabis flower, twenty dollars per milligram of the total weight of any illicit cannabis edible product, two hundred dollars per gram of the total weight of any product containing illicit cannabis concentrate, and two thousand dollars per illicit cannabis plant.

(b) No enforcement action taken under this section shall be construed to limit any other criminal or civil liability of anyone in possession of illicit cannabis.

(c) The penalty imposed by this section shall not apply to persons lawfully in possession of less than two ounces of adult-use cannabis or ten grams of concentrated cannabis in accordance with the cannabis law or penal law.

§ 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.

§ 40-a. Intentionally omitted.

§ 40-b. Intentionally omitted.

§ 40-c. Section 471 of the tax law is amended by adding a new subdivision 7 to read as follows:

7. The taxes imposed under this section shall not apply to adult-use cannabis products subject to tax under article twenty-C of this chapter.

§ 40-d. Section 1181 of the tax law, as added by section 1 of part UU of chapter 59 of the laws of 2019, is amended to read as follows:

§ 1181. Imposition of tax. In addition to any other tax imposed by this chapter or other law, there is hereby imposed a tax of twenty percent on receipts from the retail sale of vapor products sold in this state. The tax is imposed on the purchaser and collected by the vapor products dealer as defined in subdivision (b) of section eleven hundred eighty of this article, in trust for and on account of the state. The taxes imposed under this section shall not apply to adult-use cannabis products subject to tax under article twenty-C of this chapter.

§ 40-e. Intentionally omitted.

§ 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

1 law, the penal law and the criminal procedure law relating to medical
2 use of marihuana, is amended to read as follows:

3 § 12. This act shall take effect immediately [~~and~~]; provided, however
4 that sections one, three, four, five, six, seven-a, eight, nine, ten and
5 eleven of this act shall expire and be deemed repealed [~~seven~~] fourteen
6 years after such date; provided that the amendments to section 171-a of
7 the tax law made by section seven of this act shall take effect on the
8 same date and in the same manner as section 54 of part A of chapter 59
9 of the laws of 2014 takes effect and shall not expire and be deemed
10 repealed; and provided, further, that the amendments to subdivision 5 of
11 section 410.91 of the criminal procedure law made by section eleven of
12 this act shall not affect the expiration and repeal of such section and
13 shall expire and be deemed repealed therewith.

14 § 42. The cannabis control board, in consultation with the division of
15 the budget, the department of taxation and finance, the department of
16 health, office of addiction services and supports, office of mental
17 health, New York state police, department of motor vehicles and the
18 division of criminal justice services, shall conduct a study of the
19 implementation of this act. Such study shall examine all aspects of this
20 act, including economic and fiscal impacts, the impact on the public
21 health and safety of New York residents, the progress made in achieving
22 social and economic justice goals, and toward eliminating the illegal
23 market for cannabis products in New York. The board shall make recommen-
24 dations regarding if the changes to level of taxation of adult-use
25 cannabis is appropriate, as well as changes, if any, necessary to
26 improve and protect the public health and safety of New Yorkers. Such
27 study shall be completed and presented to the governor, the temporary
28 president of the senate and the speaker of the assembly, no later than
29 October 1, 2024.

30 § 43. Section 102 of the alcoholic beverage control law is amended by
31 adding a new subdivision 8 to read as follows:

32 8. No alcoholic beverage retail licensee shall sell cannabis, as
33 defined in section three of the cannabis law, nor have or possess a
34 license or permit to sell cannabis, on the same premises where alcoholic
35 beverages are sold.

36 § 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the
37 general obligations law, as added by chapter 406 of the laws of 2000,
38 are amended to read as follows:

39 1. "Illegal drug" means any controlled substance [~~or marijuana~~] the
40 possession of which is an offense under the public health law or the
41 penal law.

42 4. "Grade one violation" means possession of one-quarter ounce or
43 more, but less than four ounces, or distribution of less than one ounce
44 of an illegal drug [~~other than marijuana, or possession of one pound or~~
45 ~~twenty-five plants or more, but less than four pounds or fifty plants,~~
46 ~~or distribution of less than one pound of marijuana~~].

47 5. "Grade two violation" means possession of four ounces or more, but
48 less than eight ounces, or distribution of one ounce or more, but less
49 than two ounces, of an illegal drug [~~other than marijuana, or possession~~
50 ~~of four pounds or more or fifty plants or distribution of more than one~~
51 ~~pound but less than ten pounds of marijuana~~].

52 6. "Grade three violation" means possession of eight ounces or more,
53 but less than sixteen ounces, or distribution of two ounces or more, but
54 less than four ounces, of a specified illegal drug [~~or possession of~~
55 ~~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, and any regulations promulgated thereunder, as well as the policies or procedures of the facility or provider agency governing such custodians. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by article thirty-three of the public health law, at the workplace or while on duty.

§ 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)

1 recommend additional opportunities for improvement to the director of
2 the facility or provider agency, if appropriate; (iii) review incident
3 trends and patterns concerning reportable incidents; and (iv) make
4 recommendations to the director of the facility or provider agency to
5 assist in reducing reportable incidents. Members of the committee shall
6 be trained in confidentiality laws and regulations, and shall comply
7 with section seventy-four of the public officers law~~[-]; and~~

8 (g) safe storage, administration, and diversion prevention policies
9 regarding controlled substances and medical cannabis.

10 § 47. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal
11 law, as added by chapter 90 of the laws of 2014, are amended to read as
12 follows:

13 § 179.00 Criminal diversion of medical ~~[marihuana]~~ cannabis; defi-
14 nitions.

15 The following definitions are applicable to this article:

16 1. "Medical ~~[marihuana]~~ cannabis" means medical ~~[marihuana]~~ cannabis
17 as defined in ~~[subdivision eight of section thirty-three hundred sixty~~
18 ~~of the public health law]~~ section three of the cannabis law.

19 2. "Certification" means a certification, made under section ~~[thirty-~~
20 ~~three hundred sixty-one of the public health law]~~ thirty of the cannabis
21 law.

22 § 179.05 Criminal diversion of medical ~~[marihuana]~~ cannabis; limita-
23 tions.

24 The provisions of this article shall not apply to:

25 1. a practitioner authorized to issue a certification who acted in
26 good faith in the lawful course of his or her profession; or

27 2. a registered organization as that term is defined in ~~[subdivision~~
28 ~~nine of section thirty-three hundred sixty of the public health law]~~
29 section thirty-four of the cannabis law who acted in good faith in the
30 lawful course of the practice of pharmacy; or

31 3. a person who acted in good faith seeking treatment for a medical
32 condition or assisting another person to obtain treatment for a medical
33 condition.

34 § 179.10 Criminal diversion of medical ~~[marihuana]~~ cannabis in the first
35 degree.

36 A person is guilty of criminal diversion of medical ~~[marihuana]~~ canna-
37 bis in the first degree when he or she is a practitioner, as that term
38 is defined in ~~[subdivision twelve of section thirty-three hundred sixty~~
39 ~~of the public health law]~~ section three of the cannabis law, who issues
40 a certification with knowledge of reasonable grounds to know that (i)
41 the recipient has no medical need for it, or (ii) it is for a purpose
42 other than to treat a ~~[serious]~~ condition as defined in ~~[subdivision~~
43 ~~seven of section thirty-three hundred sixty of the public health law]~~
44 section three of the cannabis law.

45 Criminal diversion of medical ~~[marihuana]~~ cannabis in the first degree
46 is a class E felony.

47 § 179.11 Criminal diversion of medical ~~[marihuana]~~ cannabis in the
48 second degree.

49 A person is guilty of criminal diversion of medical ~~[marihuana]~~ canna-
50 bis in the second degree when he or she sells, trades, delivers, or
51 otherwise provides medical ~~[marihuana]~~ cannabis to another with know-
52 ledge or reasonable grounds to know that the recipient is not registered
53 under ~~[title five-A of article thirty-three of the public health law]~~
54 article three of the cannabis law.

55 Criminal diversion of medical ~~[marihuana]~~ cannabis in the second
56 degree is a class B misdemeanor.

1 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

2 A person is guilty of criminal retention of medical [~~marihuana~~] canna-
3 bis when, being a certified patient or designated caregiver, as those
4 terms are defined in [~~subdivisions three and five of section thirty-~~
5 ~~three hundred sixty of the public health law, respectively~~] section
6 three of the cannabis law, he or she knowingly obtains, possesses,
7 stores or maintains an amount of [~~marihuana~~] cannabis in excess of the
8 amount he or she is authorized to possess under the provisions of [~~title~~
9 ~~five-A of article thirty-three of the public health law~~] article three
10 of the cannabis law.

11 Criminal retention of medical [~~marihuana is a class A misdemeanor~~]
12 cannabis shall be punishable as provided in section 222.25 of this chap-
13 ter.

14 § 48. Section 220.78 of the penal law, as added by chapter 154 of the
15 laws of 2011, is amended to read as follows:

16 § 220.78 Witness or victim of drug or alcohol overdose.

17 1. A person who, in good faith, seeks health care for someone who is
18 experiencing a drug or alcohol overdose or other life threatening
19 medical emergency shall not be charged or prosecuted for a controlled
20 substance offense under this article [~~two hundred twenty~~] or a [~~marihua-~~
21 ~~na~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two
22 of this title, other than an offense involving sale for consideration or
23 other benefit or gain, or charged or prosecuted for possession of alco-
24 hol by a person under age twenty-one years under section sixty-five-c of
25 the alcoholic beverage control law, or for possession of drug parapher-
26 nalia under article thirty-nine of the general business law, with
27 respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or
28 paraphernalia that was obtained as a result of such seeking or receiving
29 of health care.

30 2. A person who is experiencing a drug or alcohol overdose or other
31 life threatening medical emergency and, in good faith, seeks health care
32 for himself or herself or is the subject of such a good faith request
33 for health care, shall not be charged or prosecuted for a controlled
34 substance offense under this article or a [~~marihuana~~] cannabis offense
35 under article two hundred [~~twenty-one~~] twenty-two of this title, other
36 than an offense involving sale for consideration or other benefit or
37 gain, or charged or prosecuted for possession of alcohol by a person
38 under age twenty-one years under section sixty-five-c of the alcoholic
39 beverage control law, or charged or prosecuted for possession of canna-
40 bis or concentrated cannabis by a person under the age of twenty-one
41 under section one hundred thirty-two of the cannabis law, or for
42 possession of drug paraphernalia under article thirty-nine of the gener-
43 al business law, with respect to any substance, [~~marihuana~~] cannabis,
44 alcohol or paraphernalia that was obtained as a result of such seeking
45 or receiving of health care.

46 3. Definitions. As used in this section the following terms shall have
47 the following meanings:

48 (a) "Drug or alcohol overdose" or "overdose" means an acute condition
49 including, but not limited to, physical illness, coma, mania, hysteria
50 or death, which is the result of consumption or use of a controlled
51 substance or alcohol and relates to an adverse reaction to or the quan-
52 tity of the controlled substance or alcohol or a substance with which
53 the controlled substance or alcohol was combined; provided that a
54 patient's condition shall be deemed to be a drug or alcohol overdose if
55 a prudent layperson, possessing an average knowledge of medicine and

1 health, could reasonably believe that the condition is in fact a drug or
2 alcohol overdose and (except as to death) requires health care.

3 (b) "Health care" means the professional services provided to a person
4 experiencing a drug or alcohol overdose by a health care professional
5 licensed, registered or certified under title eight of the education law
6 or article thirty of the public health law who, acting within his or her
7 lawful scope of practice, may provide diagnosis, treatment or emergency
8 services for a person experiencing a drug or alcohol overdose.

9 4. It shall be an affirmative defense to a criminal sale controlled
10 substance offense under this article or a criminal sale of [~~marihuana~~]
11 ~~cannabis~~ offense under article two hundred [~~twenty-one~~] ~~twenty-two~~ of
12 this title, not covered by subdivision one or two of this section, with
13 respect to any controlled substance or [~~marihuana~~] ~~cannabis~~ which was
14 obtained as a result of such seeking or receiving of health care, that:

15 (a) the defendant, in good faith, seeks health care for someone or for
16 him or herself who is experiencing a drug or alcohol overdose or other
17 life threatening medical emergency; and

18 (b) the defendant has no prior conviction for the commission or
19 attempted commission of a class A-I, A-II or B felony under this arti-
20 cle.

21 5. Nothing in this section shall be construed to bar the admissibility
22 of any evidence in connection with the investigation and prosecution of
23 a crime with regard to another defendant who does not independently
24 qualify for the bar to prosecution or for the affirmative defense; nor
25 with regard to other crimes committed by a person who otherwise quali-
26 fies under this section; nor shall anything in this section be construed
27 to bar any seizure pursuant to law, including but not limited to pursu-
28 ant to section thirty-three hundred eighty-seven of the public health
29 law.

30 6. The bar to prosecution described in subdivisions one and two of
31 this section shall not apply to the prosecution of a class A-I felony
32 under this article, and the affirmative defense described in subdivision
33 four of this section shall not apply to the prosecution of a class A-I
34 or A-II felony under this article.

35 § 49. Subdivision 1 of section 260.20 of the penal law, as amended by
36 chapter 362 of the laws of 1992, is amended to read as follows:

37 1. He knowingly permits a child less than eighteen years old to enter
38 or remain in or upon a place, premises or establishment where sexual
39 activity as defined by article one hundred thirty, two hundred thirty or
40 two hundred sixty-three of this [~~chapter~~] ~~part~~ or activity involving
41 controlled substances as defined by article two hundred twenty of this
42 [~~chapter or involving marihuana as defined by article two hundred twen-~~
43 ~~ty-one of this chapter~~] ~~part~~ is maintained or conducted, and he knows or
44 has reason to know that such activity is being maintained or conducted;
45 or

46 § 50. Section 89-h of the state finance law, as added by chapter 90 of
47 the laws of 2014, is amended to read as follows:

48 § 89-h. Medical [~~marihuana~~] ~~cannabis~~ trust fund. 1. There is hereby
49 established in the joint custody of the state comptroller and the
50 commissioner of taxation and finance a special fund to be known as the
51 "medical [~~marihuana~~] ~~cannabis~~ trust fund."

52 2. The medical [~~marihuana~~] ~~cannabis~~ trust fund shall consist of all
53 moneys required to be deposited in the medical [~~marihuana~~] ~~cannabis~~
54 trust fund pursuant to the provisions of section four hundred ninety of
55 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; and (e) forty-five percent of the monies shall be transferred to the New York state cannabis revenue fund. 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 credited or transferred 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.

(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, and the urban development corporation, related to the administration of incubators and other assistance to qualified social and economic equity applicants including the administration, capitalization, and provision of low and zero interest loans 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

1 by registered organizations pursuant to section sixty-three of the
2 cannabis law.

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

8 (i) Reasonable costs incurred by the office of cannabis management to
9 track and report data related to the licensing of cannabis businesses,
10 including the geographic location, structure, and function of licensed
11 cannabis businesses, and demographic data, including race, ethnicity,
12 and gender, of applicants and license holders. The cannabis control
13 board shall publish reports on its findings annually and shall make the
14 reports available to the public.

15 (ii) Reasonable costs incurred by the department of criminal justice
16 services to track and report data related to any infractions,
17 violations, or criminal convictions that occur under any of the remain-
18 ing cannabis statutes. The department of criminal justice services
19 shall publish reports on its findings annually and shall make the
20 reports available to the public.

21 (iii) Reasonable costs incurred by agencies of the state, including
22 the state university of New York to research and evaluate the implemen-
23 tation and effect of the cannabis law. No more than four percent of
24 these monies may be used for expenses related to administrative costs of
25 conducting such research, and to, if appropriate, make recommendations
26 to the legislature and governor regarding possible amendments to the
27 cannabis law. The recipients of these funds shall publish reports on
28 their findings at a minimum of every two years and shall make the
29 reports available to the public. The research funded pursuant to this
30 subdivision shall include but not necessarily be limited to:

31 (A) the impact on public health, including health costs associated
32 with cannabis use, as well as whether cannabis use is associated with an
33 increase or decrease in use of alcohol or other drugs;

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

36 (C) public safety issues related to cannabis use, including, but not
37 limited to studying the effectiveness of the packaging and labeling
38 requirements and advertising and marketing restrictions contained in the
39 act at preventing underage access to and use of cannabis and cannabis
40 products, and studying the health-related effects among users of varying
41 potency levels of cannabis and cannabis products;

42 (D) cannabis use rates, maladaptive use rates for adults and youth,
43 and diagnosis rates of cannabis-related substance use disorders;

44 (E) cannabis market prices, illicit market prices, tax structures and
45 rates, including an evaluation of how to best tax cannabis based on
46 potency, and the structure and function of licensed cannabis businesses;

47 (F) whether additional protections are needed to prevent unlawful
48 monopolies or anti-competitive behavior from occurring in the cannabis
49 industry and, if so, recommendations as to the most effective measures
50 for preventing such behavior;

51 (G) the economic impacts in the private and public sectors, including
52 but not necessarily limited to, job creation, workplace safety, reven-
53 ues, taxes generated for state and local budgets, and criminal justice
54 impacts, including, but not necessarily limited to, impacts on law
55 enforcement and public resources, short and long term consequences of

1 involvement in the criminal justice system, and state and local govern-
2 ment agency administrative costs and revenue;

3 (H) the extent to which the regulatory agencies tasked with implement-
4 ing and enforcing the marihuana regulation and taxation act have been
5 able to implement the provisions of such act, consistent with its intent
6 and purposes, and whether different agencies might be able to do so more
7 effectively; and

8 (I) any environmental impacts and hazards related to cannabis
9 production.

10 (e) Reasonable costs incurred by the state police and the department
11 of motor vehicles to implement the provisions of section sixty of the
12 marihuana regulation and taxation act, to expand and enhance the drug
13 recognition expert training program and technologies utilized in the
14 process of maintaining road safety.

15 (f) Reasonable costs, subject to available appropriations, incurred by
16 the office of cannabis management, the cannabis advisory board, or the
17 urban development corporation to administer grants for qualified commu-
18 nity-based nonprofit organizations and approved local government enti-
19 ties for the purpose of reinvesting in communities disproportionately
20 affected by past federal and state drug policies, in accordance with the
21 allowable uses of moneys deposited in the New York state community
22 grants reinvestment fund established by section ninety-nine-kk of this
23 article.

24 (g) Reasonable costs, subject to available appropriations, incurred by
25 the division of criminal justice services and the office of court admin-
26 istration to implement the expungement provisions of sections seventeen
27 and twenty-four of the marihuana regulation and taxation act, as added
28 by a chapter of the laws of two thousand twenty-one which added this
29 section.

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

36 (a) forty percent shall be deposited in the state lottery fund for
37 additional lottery grants to eligible school districts pursuant to
38 subparagraph four of paragraph b of subdivision four of section ninety-
39 two-c of this article, and shall be used to increase the total amount of
40 funding available for general support for public schools; provided that
41 notwithstanding any inconsistent provision of law, the amounts appropri-
42 ated for such additional lottery grants shall be excluded from the
43 calculation of: (i) the allowable growth amount computed pursuant to
44 paragraph dd of subdivision one of section thirty-six hundred two of the
45 education law; (ii) the preliminary growth amount computed pursuant to
46 paragraph ff of subdivision one of section thirty-six hundred two of the
47 education law; and (iii) the allocable growth amount computed pursuant
48 to paragraph gg of subdivision one of section thirty-six hundred two of
49 the education law;

50 (b) twenty percent shall be deposited in the drug treatment and public
51 education fund established by section ninety-nine-jj of this article;
52 and

53 (c) forty percent shall be deposited in the community grants reinvest-
54 ment fund established by section ninety-nine-kk of this article.

55 § 99-jj. New York state drug treatment and public education fund. 1.
56 There is hereby established in the joint custody of the state comp-

1 troller and the commissioner of taxation and finance a special fund to
2 be known as the "New York state drug treatment public education fund".

3 2. Such fund shall consist of revenues received pursuant to the
4 provisions of section ninety-nine-ii of this article and all other
5 moneys credited or transferred thereto from any other fund or source
6 pursuant to law. Nothing contained in this section shall prevent the
7 state from receiving grants, gifts or bequests for the purposes of the
8 fund as defined in this section and depositing them into the fund
9 according to law.

10 3. The moneys in such fund shall be expended to the commissioner of
11 the office of addiction services and supports and disbursed, in consul-
12 tation with the commissioner of the department of health, the office of
13 mental health, the office of cannabis management and the commissioner of
14 education for the following purposes:

15 (a) Reasonable costs incurred, subject to available appropriations, by
16 the office of addiction services and supports, to administer funds in
17 accordance with the allowable uses in paragraphs (b), (c), (d) and (e)
18 of this subdivision.

19 (b) To develop and implement a youth-focused public health education
20 and prevention campaign, including school-based prevention, early inter-
21 vention, and health care services and programs to reduce the risk of
22 cannabis and other substance use by school-aged children;

23 (c) To develop and implement a statewide public health campaign
24 focused on the health effects of cannabis and legal use, including an
25 ongoing education and prevention campaign that educates the general
26 public, including parents, consumers and retailers, on the legal use of
27 cannabis, the importance of preventing youth access, the importance of
28 safe storage and preventing secondhand cannabis smoke exposure, informa-
29 tion for pregnant or breastfeeding women, and the overconsumption of
30 edible cannabis products;

31 (d) To provide substance use disorder treatment programs for youth and
32 adults, with an emphasis on programs that are culturally and gender
33 competent, trauma-informed, evidence-based and provide a continuum of
34 care that includes screening and assessment (substance use disorder as
35 well as mental health), early intervention, active treatment, family
36 involvement, case management, overdose prevention, prevention of commu-
37 nicable diseases related to substance use, relapse management for
38 substance use and other co-occurring behavioral health disorders, voca-
39 tional services, literacy services, parenting classes, family therapy
40 and counseling services, medication-assisted treatments, psychiatric
41 medication and psychotherapy; and

42 (e) To evaluate the programs being funded to determine their effec-
43 tiveness.

44 4. On or before the first day of February each year, the commissioner
45 of the office of addiction services and supports shall provide a written
46 report to the temporary president of the senate, speaker of the assem-
47 bly, chair of the senate finance committee, chair of the assembly ways
48 and means committee, chair of the senate committee on alcoholism and
49 drug abuse, chair of the assembly alcoholism and drug abuse committee,
50 the state comptroller and the public. Such report shall detail how the
51 moneys of the fund were utilized during the preceding calendar year, and
52 shall include:

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

55 (b) recipients of awards from the fund;

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

1 (d) the purposes for which such awards were granted; and
2 (e) a summary financial plan for such monies which shall include esti-
3 mates of all receipts and all disbursements for the current and succeed-
4 ing fiscal years, along with the actual results from the prior fiscal
5 year.

6 5. Moneys shall be payable from the fund on the audit and warrant of
7 the comptroller on vouchers approved and certified by the commissioner
8 of addiction services and supports.

9 § 99-kk. New York state community grants reinvestment fund. 1. There
10 is hereby established in the joint custody of the state comptroller and
11 the commissioner of taxation and finance a special fund to be known as
12 the "New York state community grants reinvestment fund".

13 2. Such fund shall consist of all revenues received pursuant to the
14 provisions of section ninety-nine-ii of this article and all other
15 moneys credited or transferred thereto from any other fund or source
16 pursuant to law. Nothing contained in this section shall prevent the
17 state from receiving grants, gifts or bequests for the purposes of the
18 fund as defined in this section and depositing them into the fund
19 according to law.

20 3. The fund shall be governed and administered by the state cannabis
21 advisory board as set out under article two of the cannabis law.

22 4. The moneys in such fund shall be awarded by the state cannabis
23 advisory board and administered and disbursed by the office of cannabis
24 management and/or the urban development corporation to provide grants
25 for qualified community-based nonprofit organizations and approved local
26 government entities for the purpose of reinvesting in communities
27 disproportionately affected by past federal and state drug policies.
28 Such grants shall be used, including but not limited to, to support job
29 placement, job skills services, adult education, mental health treat-
30 ment, substance use disorder treatment, housing, financial literacy,
31 community banking, nutrition services, services to address adverse
32 childhood experiences, afterschool and child care services, system navi-
33 gation services, legal services to address barriers to reentry, includ-
34 ing, but not limited to, providing representation and related assistance
35 with expungement, vacatur, substitution and resentencing of marihuana-
36 related convictions, and linkages to medical care, women's health
37 services and other community-based supportive services. The grants from
38 this program may also be used to further support the social and economic
39 equity program created by article four of the cannabis law and as estab-
40 lished by the cannabis control board.

41 5. On or before the first day of February each year, the office of
42 cannabis management shall provide a written report to the temporary
43 president of the senate, speaker of the assembly, chair of the senate
44 finance committee, chair of the assembly ways and means committee, chair
45 of the senate committee on children and families, chair of the assembly
46 children and families committee, chair of the senate committee on labor,
47 chair of the assembly labor committee, chair of the senate committee on
48 health, chair of the assembly health committee, chair of the senate
49 committee on education, chair of the assembly education committee, the
50 state comptroller and the public. Such report shall detail how the
51 monies of the fund were utilized during the preceding calendar year, and
52 shall include:

53 (a) the amount of money available and dispersed from the fund and the
54 award process used for such disbursements;

55 (b) recipients of awards from the fund;

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

1 (d) the purposes for which such awards were granted; and
2 (e) a summary financial plan for such monies which shall include esti-
3 mates of all receipts and all disbursements for the current and succeed-
4 ing fiscal years, along with the actual results from the prior fiscal
5 year.

6 6. Moneys shall be payable from the fund on the audit and warrant of
7 the comptroller on vouchers approved and certified by the office of
8 cannabis management.

9 § 52. Paragraphs (a), (b) and (c) of subdivision 3-a of section 390-b
10 of the social services law, as added by section 9 of part H of chapter
11 56 of the laws of 2019, are amended to read as follows:

12 (a) In relation to child day care programs and any enrolled legally-
13 exempt provider, when a clearance conducted pursuant to this section
14 reveals that any existing operator, director, caregiver, or person over
15 the age of eighteen who is not related in any way to all children for
16 whom child care services are or will be provided, that resides in a home
17 where child care is provided in a home setting where the child does not
18 reside has been convicted of a crime other than one set forth in subpara-
19 graph (iv) of paragraph (a) of subdivision three of this section, and
20 unless such crime is eligible for expungement pursuant to section 160.50
21 of the criminal procedure law, the office of children and family
22 services shall conduct a safety assessment of the program and take all
23 appropriate steps to protect the health and safety of the children in
24 the program, and may deny, limit, suspend, revoke or reject such
25 program's license or registration or terminate or reject such program's
26 enrollment, as applicable, unless the office of children and family
27 services, determines in its discretion, that continued operation by the
28 child day care program or enrolled legally-exempt provider will not in
29 any way jeopardize the health, safety or welfare of the children cared
30 for in the program or by the provider.

31 (b) In relation to child day care programs and any enrolled legally-
32 exempt provider, when a clearance conducted pursuant to this section
33 reveals that any existing employee or volunteer with the potential for
34 unsupervised contact with children has been convicted of a crime other
35 than one set forth in subparagraph (iv) of paragraph (a) of subdivision
36 three of this section, and unless such crime is eligible for expungement
37 pursuant to section 160.50 of the criminal procedure law, the office of
38 children of family services shall conduct a safety assessment of the
39 program and take all appropriate steps to protect the health and safety
40 of the children in the program. The office of children and family
41 services may direct the program or provider to terminate the employee or
42 volunteer based on such a conviction, consistent with article
43 twenty-three-A of the correction law.

44 (c) (i) In relation to any child day care programs and any enrolled
45 legally-exempt providers, where a clearance conducted pursuant to this
46 section reveals a conviction for a crime other than one set forth in
47 subparagraph (iv) of paragraph (a) of subdivision three of this section,
48 and unless such crime is eligible for expungement pursuant to section
49 160.50 of the criminal procedure law, for any prospective employee or
50 volunteer, the office of children and family services may direct that
51 such person not be hired, as applicable, based on such a conviction,
52 consistent with article twenty-three-A of the correction law.

53 (ii) In relation to any child day care program and any enrolled legal-
54 ly-exempt provider, when a clearance conducted pursuant to this section
55 reveals a conviction for a crime other than one set forth in subpara-
56 graph (iv) of paragraph (a) of subdivision three of this section, and

1 unless such crime is eligible for expungement pursuant to section 160.50
2 of the criminal procedure law, for any prospective caregiver seeking
3 enrollment, or applicant to be a director or operator, the office of
4 children and family services may deny the application or enrollment,
5 consistent with article twenty-three-A of the correction law.

6 § 53. Subparagraph 1 of paragraph (e) of subdivision 2 of section
7 378-a of the social services law, as amended by section 10 of part L of
8 chapter 56 of the laws of 2015, is amended to read as follows:

9 (1) Notwithstanding any other provision of law to the contrary, an
10 application for certification or approval of a prospective foster parent
11 or prospective adoptive parent shall be denied and, in the event of
12 death or incapacity of a relative guardian, an agreement to provide
13 payments to a prospective successor guardian pursuant to title ten of
14 this article shall not be approved pursuant to subparagraph (ii) of
15 paragraph (b) of subdivision five of section four hundred fifty-eight-b
16 of this article, as applicable, where a criminal history record of the
17 prospective foster parent, prospective adoptive parent or prospective
18 successor guardian, as applicable, reveals a conviction for:

19 (A) a felony conviction at any time involving: (i) child abuse or
20 neglect; (ii) spousal abuse; (iii) a crime against a child, including
21 child pornography; or (iv) a crime involving violence, including rape,
22 sexual assault, or homicide, other than a crime involving physical
23 assault or battery; or

24 (B) a felony conviction within the past five years for physical
25 assault, battery, or a drug-related offense, unless such offense is
26 eligible for expungement pursuant to section 160.50 of the criminal
27 procedure law; or

28 § 54. Paragraph (b) of subdivision 4 of section 132 of the social
29 services law, as added by section 23 of part B of chapter 436 of the
30 laws of 1997, is amended to read as follows:

31 (b) When the screening process indicates that there is reason to
32 believe that an applicant or recipient is abusing or dependent on alco-
33 hol or drugs, the social services district shall require a formal alco-
34 hol or substance abuse assessment, which may include drug testing, to be
35 performed by an alcohol and/or substance abuse professional credentialed
36 by the office of [~~alcoholism and substance abuse services~~] addiction
37 services and supports. Provided however, if the applicant or recipient
38 tests positive for the presence of cannabis, the positive result alone
39 shall not be sufficient to establish a dependence for purposes of
40 requiring an individual to participate in a treatment program pursuant
41 to paragraph (c) of this subdivision. The assessment may be performed
42 directly by the district or pursuant to contract with the district.

43 § 55. Subdivision 6 of section 422 of the social services law, as
44 amended by section 7 of part D of chapter 501 of the laws of 2012, is
45 amended to read as follows:

46 6. In all other cases, the record of the report to the statewide
47 central register shall be expunged ten years after the eighteenth birth-
48 day of the youngest child named in the report. In the case of a child in
49 residential care the record of the report to the statewide central
50 register shall be expunged ten years after the reported child's eigh-
51 teenth birthday. In any case and at any time, the commissioner of the
52 office of children and family services may amend any record upon good
53 cause shown and notice to the subjects of the report and other persons
54 named in the report. Provided however, any report indicated for
55 maltreatment based solely on the purchase, possession or consumption of
56 cannabis, without a showing that the child's physical, mental or

1 emotional condition was impaired or was in imminent danger of becoming
2 impaired in accordance with the definition of child maltreatment as
3 provided for in section four hundred twelve of this title is established
4 by a fair preponderance of the evidence shall immediately be sealed upon
5 a request pursuant to subdivision eight of this section or section four
6 hundred twenty-four-a of this title.

7 § 56. Intentionally omitted.

8 § 56-a. Subdivision 3 of section 853 of the general business law, as
9 added by chapter 90 of the laws of 2014, is amended to read as follows:

10 3. This article shall not apply to any sale, furnishing or possession
11 which is for a lawful purpose under [~~title five-A of article thirty-~~
12 ~~three of the public health law~~] the cannabis law.

13 § 56-b. Subdivision 2 of section 3371 of the public health law, as
14 amended by chapter 90 of the laws of 2014, is amended to read as
15 follows:

16 2. The prescription monitoring program registry may be accessed, under
17 such terms and conditions as are established by the department for
18 purposes of maintaining the security and confidentiality of the informa-
19 tion contained in the registry, by:

20 (a) a practitioner, or a designee authorized by such practitioner
21 pursuant to paragraph (b) of subdivision two of section thirty-three
22 hundred forty-three-a [~~or~~], section thirty-three hundred sixty-one of
23 this article or section thirty of the cannabis law, for the purposes of:

24 (i) informing the practitioner that a patient may be under treatment
25 with a controlled substance by another practitioner; (ii) providing the
26 practitioner with notifications of controlled substance activity as
27 deemed relevant by the department, including but not limited to a
28 notification made available on a monthly or other periodic basis through
29 the registry of controlled substances activity pertaining to his or her
30 patient; (iii) allowing the practitioner, through consultation of the
31 prescription monitoring program registry, to review his or her patient's
32 controlled substances history as required by section thirty-three
33 hundred forty-three-a [~~or~~], section thirty-three hundred sixty-one of
34 this article or section thirty of the cannabis law; and (iv) providing
35 to his or her patient, or person authorized pursuant to paragraph (j) of
36 subdivision one of this section, upon request, a copy of such patient's
37 controlled substance history as is available to the practitioner through
38 the prescription monitoring program registry; or

39 (b) a pharmacist, pharmacy intern or other designee authorized by the
40 pharmacist pursuant to paragraph (b) of subdivision three of section
41 thirty-three hundred forty-three-a of this article, for the purposes of:

42 (i) consulting the prescription monitoring program registry to review
43 the controlled substances history of an individual for whom one or more
44 prescriptions for controlled substances or certifications for [~~marihua-~~
45 ~~na~~] cannabis is presented to the pharmacist, pursuant to section thir-
46 ty-three hundred forty-three-a of this article; and (ii) receiving from
47 the department such notifications of controlled substance activity as
48 are made available by the department; or

49 (c) an individual employed by a registered organization as defined in
50 section three of the cannabis law, for the purpose of consulting the
51 prescription monitoring program registry to review the controlled
52 substances history of an individual for whom one or more certifications
53 for [~~marihuana~~] cannabis is presented to that registered organization,
54 pursuant to section thirty-three hundred sixty-four of this article or
55 section thirty-four of the cannabis law. Unless otherwise authorized by
56 this article or by the cannabis law, an individual employed by a regis-

1 tered organization will be provided access to the prescription monitor-
2 ing program in the sole discretion of the commissioner.

3 § 57. Subdivision (a) of section 712 of the family court act, as
4 amended by section 1 of part K of chapter 56 of the laws of 2019, is
5 amended to read as follows:

6 (a) "Person in need of supervision". A person less than eighteen years
7 of age: (i) who does not attend school in accordance with the provisions
8 of part one of article sixty-five of the education law; (ii) who is
9 incorrigible, ungovernable or habitually disobedient and beyond the
10 lawful control of a parent or other person legally responsible for such
11 child's care, or other lawful authority; (iii) who violates the
12 provisions of ~~[(1) section 221.05, or (2)]~~ section 230.00 of the penal
13 law; (iv) or who appears to be a sexually exploited child as defined in
14 paragraph (a), (c) or (d) of subdivision one of section four hundred
15 forty-seven-a of the social services law, but only if the child consents
16 to the filing of a petition under this article.

17 § 58. Paragraph (iii) of subdivision (a) of section 1046 of the family
18 court act, as amended by chapter 984 of the laws of 1981, is amended to
19 read as follows:

20 (iii) proof that a person repeatedly misuses a drug or drugs or alco-
21 holic beverages, to the extent that it has or would ordinarily have the
22 effect of producing in the user thereof a substantial state of stupor,
23 unconsciousness, intoxication, hallucination, disorientation, or incom-
24 petence, or a substantial impairment of judgment, or a substantial
25 manifestation of irrationality, shall be prima facie evidence that a
26 child of or who is the legal responsibility of such person is a
27 neglected child except that such drug, or alcoholic beverage misuse
28 shall not be prima facie evidence of neglect when such person is volun-
29 tarily and regularly participating in a recognized rehabilitative
30 program. Provided however, the sole fact that an individual consumes
31 cannabis, without a separate finding that the child's physical mental or
32 emotional condition was impaired or is in imminent danger of becoming
33 impaired established by a fair preponderance of the evidence shall not
34 be sufficient to establish prima facie evidence of neglect; and

35 § 59. Section 1 of chapter 174 of the laws of 1968, constituting the
36 New York state urban development corporation act, is amended by adding a
37 new section 16-ee to read as follows:

38 § 16-ee. Loans to social and economic equity applicants. The corpo-
39 ration is authorized, on the recommendation of the state cannabis
40 control board, to provide low interest or zero-interest loans to quali-
41 fied social and economic equity applicants and to provide funds neces-
42 sary for the provision of such loans, as provided for in article four of
43 the cannabis law.

44 § 60. 1. The division of state police shall, subject to available
45 appropriations, increase the number of trained and certified drug recog-
46 nition experts within the state, and provide increased drug recognition
47 awareness and advanced roadside impaired driving enforcement training
48 under its drug recognition program.

49 2. a. The commissioner of health shall select one or more appropriate
50 higher education research institutions to conduct a controlled research
51 study designed to evaluate methodologies and technologies for the
52 detection of cannabis-impaired driving. Such controlled research study
53 shall be based on verifiable research documentation employing accepted
54 scientific research principles, and shall include, but not be limited
55 to:

1 i. the examination, evaluation, and review of scientifically-sound
2 methodologies and technologies to be utilized in recognizing the effect
3 of cannabis in the impairment of operators of motor vehicles, with a
4 focus on distinguishing the indications of an actual and currently pres-
5 ent impairing effect by cannabis on a person's physical and cognitive
6 abilities from the presence of cannabis metabolites and potential toler-
7 ance acquired by a person's habitual cannabis use;

8 ii. an examination and evaluation of the effectiveness and reliability
9 of the aforementioned methodologies and technologies for detecting an
10 actual and currently present impairing effect by cannabis on a person's
11 physical and cognitive abilities;

12 iii. a toxicology study, review and analysis of the impact of the time
13 and manner of the consumption of cannabis, as well as the impact of the
14 potency and form of the cannabis products consumed, on impairment; and

15 iv. a review and analysis of the role and extent of impairment by
16 cannabis as a causal factor in motor vehicle crashes and the extent of
17 such cannabis-impaired driving, including an examination of motor vehi-
18 cle crash, fatality and injury statistics on an annual basis both before
19 and after the effective date of this subdivision.

20 b. Any personal identifying information or biological samples gathered
21 or resulting from the controlled research study authorized by this
22 subdivision shall be obtained only from consenting participants in a
23 laboratory setting, anonymized and kept confidential, and shall not be
24 used for law enforcement purposes, genetic testing, DNA analysis or
25 profiling, or any other purpose but may be utilized only for the specif-
26 ic and necessary research purposes of such study. Biological samples
27 gathered or resulting from the controlled research study established by
28 this subdivision shall be destroyed at the end of the testing process,
29 or not more than 60 days after the sample was taken, whichever is earli-
30 er.

31 c. Upon the completion of the controlled research study authorized by
32 this subdivision, the one or more higher education research institutions
33 that conducted such study shall issue a report on such study to the
34 governor, the majority leader of the senate, the speaker of the assem-
35 bly, the minority leader of the senate, the minority leader of the
36 assembly, and the commissioner of health on or before December 31, 2022.
37 Such report shall provide a description of the parameters, scope,
38 results and findings of such study, and detail the evidence and support-
39 ing documentation of its findings.

40 d. Upon the completion of such controlled research study and
41 submission of the report required by this subdivision, the department of
42 health may promulgate rules and regulations to approve and certify a
43 test for the presence of cannabis for the purpose of detecting indi-
44 cations of an actual and currently present impairing effect by cannabis
45 on the physical and cognitive abilities of operators of motor vehicles
46 if such test: (i) is based upon the findings of such study; and (ii)
47 produces accurate results in detecting such indications. Such indi-
48 cations shall include the presence, amount and timing of the consumption
49 of cannabis having an actual and currently present impairing effect on
50 the tested person. Any such regulations promulgated by the department of
51 health shall provide for the safe and proper use of such technology.
52 Notwithstanding the provisions of subdivision 6 of section 202 of the
53 state administrative procedure act or any other law to the contrary, the
54 department of health shall promulgate such regulations without adopting
55 the regulations on an emergency basis, and the provisions of subdivision

1 6 of section 202 of the state administrative procedure act and subdivi-
2 sion 3 of section 101-a of the executive law shall not be used.

3 § 61. The commissioner of education shall, subject to available appro-
4 priations, establish a grant program to provide awards to school
5 districts and boards of cooperative educational services for the purpose
6 of establishing school-based programs for initiatives such as anti-vap-
7 ing programs, drug prevention and awareness programs, the use of liquid
8 cannabis in vaping products, and the over-consumption of edible products
9 that contain cannabis. Provided that such grants shall be awarded by the
10 commissioner of education to applicants based on factors including but
11 not limited to: (A) community and parental engagement; (B) the appli-
12 cant's program design to meet the specific needs of students; and (C)
13 proposal quality. Provided further, that such funds shall only be used
14 to supplement, and not supplant, current local expenditures of federal,
15 state or local funds. Provided further, that no district or board of
16 cooperative educational services shall receive a grant in excess of the
17 total actual grant expenditures incurred by the school district or board
18 of cooperative educational services in the current school year, as
19 approved by the commissioner of education.

20 § 62. The commissioner of the office of addiction services and
21 supports, in consultation with the commissioner of health, the commis-
22 sioner of education, the commissioner of the office of mental health,
23 and the office of cannabis management, shall, subject to available
24 appropriations, immediately to the extent possible execute the activ-
25 ities described in subdivision 3 of section 99-jj of the state finance
26 law, as added by section fifty-one of this act.

27 § 62-a. Transfer of employees. Notwithstanding any other provision of
28 law, rule, or regulation to the contrary, upon the transfer of any func-
29 tions from the department of health to the office of cannabis management
30 for the regulation and control of medical cannabis and cannabinoid hemp
31 and hemp extract pursuant to this act, employees performing those func-
32 tions shall be transferred to the office of cannabis management pursuant
33 to subdivision 2 of section 70 of the civil service law. Employees
34 transferred pursuant to this section shall be transferred without
35 further examination or qualification and shall retain their respective
36 civil service classifications, status and collective bargaining unit
37 designations and collective bargaining agreements.

38 § 62-b. Transfer of records. All books, papers, and property of the
39 department of health related to the administration of the medical mari-
40 juana program and cannabinoid hemp program shall be deemed to be in the
41 possession of the executive director of the office of cannabis manage-
42 ment and shall continue to be maintained by the office of cannabis
43 management.

44 § 62-c. Continuity of authority. For the purpose of succession of all
45 functions, powers, duties and obligations transferred and assigned to,
46 devolved upon and assumed by it pursuant to this act, the office of
47 cannabis management shall be deemed and held to constitute the continua-
48 tion of the department of health's medical marijuana program and canna-
49 binoid hemp program.

50 § 62-d. Completion of unfinished business. Any business or other
51 matter undertaken or commenced by the department of health pertaining to
52 or connected with the functions, powers, obligations and duties hereby
53 transferred and assigned to the office of cannabis management and pend-
54 ing on the effective date of this act, may be conducted and completed by
55 the office of cannabis management.

§ 62-e. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the department of health pertaining to medical marijuana and cannabinoid hemp and hemp extract, including the functions and powers transferred and assigned pursuant to this act, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the office of cannabis management until duly modified or abrogated by the board of the office of cannabis management.

§ 62-f. Terms occurring in laws, contracts and other documents. Whenever the department of health, or commissioner thereof, is referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties hereby transferred to and assigned to the office of cannabis management, such reference or designation shall be deemed to refer to the board of cannabis management, or the executive director thereof, as applicable.

§ 62-g. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by any provisions of this act.

§ 62-h. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the department of health, or the commissioner thereof, shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the executive director of the office of cannabis management. In all such actions and proceedings, the executive director of the office of cannabis management, upon application to the court, shall be substituted as a party.

§ 63. 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 furtherance 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 marijuana 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 two years after the effective date of this act; the amendments to article 20-B of the tax law made by sections thirty-four, thirty-seven and thirty-eight of this act shall not affect the repeal of such article and shall be deemed repealed therewith; 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; provided, further, that the amendments to subdivision 3 of

1 section 853 of the general business law made by section fifty-six-a of
2 this act shall not affect the repeal of such section and shall be deemed
3 repealed therewith; and provided, further, that the amendments to subdi-
4 vision 2 of section 3371 of the public health law made by section
5 fifty-six-b of this act shall not affect the expiration of such subdivi-
6 sion and shall be deemed to expire therewith.