STATE OF NEW YORK

S. 2509 A. 3009

SENATE - ASSEMBLY

January 20, 2021

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to imposing a tax surcharge on wealthy taxpayers (Part A); to amend the tax law, in relation to delaying tax reductions (Part B); to amend the tax law and the state finance law, in relation to the imposition of a pass-through entity tax (Part C); to amend the economic development law and the tax law, in relation to child care services expenditures under the excelsior jobs program and the employer provided child care credit (Part D); to amend the tax law, in relation to reforming and simplifying various business tax provisions thereof; and to repeal certain provisions of such law related thereto (Part E); to amend the tax law, in relation to the empire state film production credit and the empire state film post production credit (Part F); to amend the tax law, in relation to wage filer reporting and reconciliation (Part G); relating to constituting a new chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of cannabis; to amend the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; to amend the tax law, in relation to providing for the levying of taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the alcoholic beverage control law, the general obligations law, the social services law, the state finance law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to amend chap-

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

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ter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal title 5-A of article 33 of the public health law relating to medical use of marihuana; to repeal article 33-B of the public health law relating to the regulation of cannabinoid hemp and hemp extract; to repeal subdivision 4 of section 220.06 and subdivision 10 of section 220.09 of the penal law relating to criminal possession of a controlled substance; to repeal sections 221.10 and 221.30 of the penal law relating to the criminal possession of marihuana; and to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia (Part H); to amend the tax law, in relation to requiring vacation rental marketplace providers collect sales tax (Part I); to amend the tax law, to impose sales tax on such admissions to race tracks and simulcast facilities; and to repeal section 227, section 306, section 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009 of the racing, pari-mutuel, wagering and breeding law, relating to certain taxes on admissions to race tracks and simulcast facilities (Part J); to amend the tax law, in relation to increasing the interest free period for certain sales tax refunds (Part K); to amend the tax law, in relation to the authority of counties to impose sales and compensating use taxes; and to repeal certain provisions of such law relating thereto (Part L); to amend the tax law, in relation to exempting from sales and use tax certain tangible personal property or services (Part M); to amend the tax law, in relation to increasing the total dollar amount for vendors' gross receipts necessary for registration filing (Part N); to amend the tax law,in relation to imposing liability for real estate transfer taxes on responsible persons, prohibiting grantors from passing real estate transfer tax to grantees, and exempting certain organizations from the LLC disclosure requirement (Part O); to amend the tax law, in relation to restrictions on certain retail dealers whose registrations have been revoked or who have been forbidden from selling cigarettes or tobacco products (Part P); to amend the tax law, in relation to the timing and method for filing certain returns (Part Q); to amend the tax law, in relation to determining liability for the collection of taxes on medallion taxicab trips and congestion surcharges (Part R); to amend the tax law, in relation to increasing tax return preparer penalties for failure to register and requiring the display of certain documents by tax return preparers (Part S); to amend the tax law, in relation to permitting the commissioner of taxation and finance to seek judicial review of decisions of the tax appeals tribunal (Part T); to amend the real property law and the tax law, in relation to electronic submission of consolidated real property transfer forms; and to repeal certain provisions of the real property law relating thereto (Part U); to amend the real property tax law, in relation to providing that beginning with assessment rolls used to levy school district taxes for the 2021--2022 school year, no application for a new enhanced exemption under this section may be approved (Subpart A); to amend the real property tax law, in relation to extending the cutoff date for a STAR credit switch (Subpart B); to amend the tax law, in relation to tax returns of deceased individuals (Subpart C); to amend the real property tax law, in relation to the powers of the state board of real property tax services and the commissioner of taxation and finance; to

amend the tax law, in relation to requiring the commissioner of taxation and finance verify the income eligibility of recipients of the basic STAR exemption; and to repeal certain provisions of the real property tax law relating thereto (Subpart D); and to amend the real property law, in relation to exemptions for manufactured home park owners or operators and mobile home owners; and to repeal certain provisions of such law relating thereto (Subpart E)(Part V); to amend the real property tax law, in relation to facilitating the administration of the real property tax, and to repeal section 307 of such law relating thereto (Part W); to amend the real property tax law and the general municipal law, in relation to promoting the development of renewable energy projects (Part X); to amend the racing, pari-mutuel wagering and breeding law, in relation to authorizing mobile sports wagering; and providing for the repeal of certain provisions of such law relating thereto (Part Y); authorizing a request for information related to gaming facility licenses (Part Z); to amend the tax law, in relation to a keno style lottery game (Part AA); to amend the tax law, in relation to restrictions on certain lottery draw game offerings (Part BB); to amend the racing, pari-mutuel wagering and breeding law, in relation to the office of the gaming inspector general; and to repeal certain provisions of such law relating thereto (Part CC); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and to amend chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part DD); to amend chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions for five years (Part EE); to amend the tax law and chapter 60 of the laws of 2016 amending the tax law relating to creating a farm workforce retention credit, in relation to extending the provisions of such credit through tax year 2024 (Part FF); to amend the public housing law, in relation to extending the credit against income tax for persons or entities investing in low-income housing (Part GG); to amend chapter 59 of the laws of 2014, amending the tax law relating to a musical and theatrical production credit, in relation to the effectiveness thereof; and to amend the tax law in relation to increasing the aggregate cap on the amount of such credit (Part HH); to amend the tax law, in relation to extending hire a veteran credit for an additional year (Part II); to amend chapter 61 of the laws of 2011 amending the economic development law, the tax law and the real property tax law, relating to establishing the economic transformation and facility redevelopment program and providing tax benefits under that program and to amend the economic development law, in relation to extending the tax credits under the economic transformation and facility redevelopment program (Part JJ); to amend the general business law, in relation to requiring the implementation of the secure choice

program by a certain date (Part KK); and in relation to temporarily suspending certain racing support payments (Part LL)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2021-2022 state fiscal year. Each component is wholly contained within a Part identified as Parts A through LL. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The tax law is amended by adding a new section 602 to read as follows:

§ 602. (a) Surcharge. In addition to the taxes imposed under section six hundred one of this part, an income tax surcharge is hereby imposed on individuals for the taxable years two thousand twenty-one through two thousand twenty-three on the taxpayer's New York taxable income, at the following rates:

If the taxpayer's New York taxable income is:	The surcharge rate is:
Over $5,000,000 but not over $10,000,000	0.5 percent
Over $10,000,000 but not over $25,000,000	1.0 percent
Over $25,000,000 but not over $50,000,000	1.5 percent
Over $50,000,000 but not over $100,000,000	1.75 percent
Over $100,000,000	2.0 percent

(b) Method of payment. A taxpayer shall pay the tax surcharge when the taxpayer files his or her personal income tax return required to be filed pursuant to section six hundred fifty-one of this article. A taxpayer may also pre-pay in taxable year two thousand twenty-one all or a portion of the tax surcharge for taxable year two thousand twenty-two and/or two thousand twenty-three that the taxpayer estimates will be owed under this section in the manner the commissioner of taxation and finance shall prescribe. The commissioner shall prescribe a method of recording and applying the payment of pre-paid tax surcharge amounts made pursuant to this to this subsection, with the pre-payment reducing the taxpayer's surcharge liability first for taxable year two thousand twenty-two, with the remainder applied to reduce the taxpayer's surcharge liability in taxable year two thousand twenty-three and any excess in taxable year two thousand twenty-three treated as a tax overpayment to be refunded or credited against tax otherwise owed under this article; provided however, that no interest will be paid thereon. The surcharge imposed by this section shall be included for purposes of computing and remitting estimated tax pursuant to section six hundred

eighty-five of this article. The credits allowed under this article may not be used to reduce the surcharge imposed by this section.

§ 2. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 43 to read as follows:

(43) Taxpayers who pre-pay the tax surcharge imposed under subsection (a) of section six hundred two of this article in taxable year two thousand twenty-one shall be allowed a deduction as computed in this paragraph beginning in taxable year two thousand twenty-four. In taxable year two thousand twenty-four, the deduction shall be equal to the lesser of (i) the sum of the taxpayer's interest, dividends and capital gains taxable in this state or (ii) the product of fifty percent and the pre-payment income equivalent. For purposes of this paragraph, the pre-payment income equivalent is the quotient of the amount of the tax surcharge pre-payment the taxpayer made pursuant to subsection (b) of section six hundred two of this article and eight and eighty-two hundredths percent. The deduction allowed in taxable year two thousand twenty-five and thereafter shall be equal to the lesser of (i) the sum of the taxpayer's interest, dividends and capital gains taxable in this state or (ii) the remaining amount of the taxpayer's pre-payment income equivalent. The taxpayer shall continue to be allowed this deduction until all of the taxpayer's pre-payment income equivalent is used up in calculating this deduction.

§ 3. Section 606 of the tax law is amended by adding a new subsection (www) to read as follows:

(www) Taxpayers who pre-pay the tax surcharge imposed under section six hundred two of this article but die before the remainder of its pre-payment income equivalent is used up as provided in paragraph forty-three of subsection (c) of section six hundred twelve of this article, will be allowed a tax credit on the taxpayer's final return equal to the remaining amount of tax surcharge pre-payment the taxpayer has available for use that corresponds to the remaining pre-payment income equivalent referred to in paragraph forty-three of subsection (c) of section six hundred twelve of this article. If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment to be refunded in accordance with the provisions of section six hundred eighty-six of this article, provided however, that no interest shall be paid thereon.

§ 4. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2021 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Any such changes in withholding tables and methods for tax year 2021 shall be adopted and effective as soon as practicable. The commissioner of taxation and finance may make similar changes to withholding tables and methods. The withholding tables and methods for tax year 2021 shall not be prescribed by regulation, notwithstanding any provision of the state administrative procedure act to the contrary.

§ 5. The additions to tax imposed by subsection (c) of section 685 of the tax law shall not apply to any installments of estimated tax due on or before September fifteenth, two thousand twenty-one if the underpayment is the result of the enactment of the tax surcharge for the tax year two thousand twenty-one prescribed by this act.

§ 6. Severability. The powers granted and the duties imposed by this act and the applicability thereof to any taxpayers shall be construed to be independent and severable and if any one or more sections, subsections, clauses, sentences or parts of this act, or the applicability thereof to any taxpayers shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof or the applicability thereof to other taxpayers, but shall be confined in its operation to the specific provisions so held unconstitutional and invalid and to the taxpayers affected thereby. If any provisions under section two or three of this act shall be adjudged unconstitutional or invalid, then the entire affected section of this act shall be deemed void.

§ 7. This act shall take effect immediately.

PART B

Section 1. Clauses (iii), (iv), (v), (vi), (vii) and (viii) of subparagraph (B) of paragraph 1 of subsection (a) of section 601 of the tax law, clauses (iii), (iv), (v), (vi) and (vii) as amended by section 1 of part P of chapter 59 of the laws of 2019 and clause (viii) as added by section 1 of part R of chapter 59 of the laws of 2017, are amended to read as follows:

(iii) For taxable years beginning in two thousand twenty **and two thousand twenty-one** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $43,000	$1,202 plus 5.9% of excess over $27,900
Over $43,000 but not over $161,550	$2,093 plus 6.09% of excess over $43,000
Over $161,550 but not over $323,200	$9,313 plus 6.41% of excess over $161,550
Over $323,200 but not over $2,155,350	$19,674 plus 6.85% of excess $323,200 over
Over $2,155,350	$145,177 plus 8.82% of excess over $2,155,350

(iv) For taxable years beginning in two thousand [~~twenty-one~~] **twenty-two** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $43,000	$1,202 plus 5.9% of excess over $27,900
Over $43,000 but not over $161,550	$2,093 plus 5.97% of excess over

	$43,000
Over $161,550 but not over $323,200	$9,170 plus 6.33% of excess over $161,550
Over $323,200 but not over $2,155,350	$19,403 plus 6.85% of excess over $323,200
Over $2,155,350	$144,905 plus 8.82% of excess over $2,155,350

(v) For taxable years beginning in two thousand [~~twenty-two~~] **twenty-three** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.85% of excess over $27,900
Over $161,550 but not over $323,200	$9,021 plus 6.25% of excess over $161,550
Over $323,200 but not over $2,155,350	$19,124 plus 6.85% of excess over $323,200
Over $2,155,350	$144,626 plus 8.82% of excess over $2,155,350

(vi) For taxable years beginning in two thousand [~~twenty-three~~] **twenty-four** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.73% of excess over $27,900
Over $161,550 but not over $323,200	$8,860 plus 6.17% of excess over $161,550
Over $323,200 but not over $2,155,350	$18,834 plus 6.85% of excess over $323,200
Over $2,155,350	$144,336 plus 8.82% of excess over $2,155,350

(vii) For taxable years beginning in two thousand [~~twenty-four~~] **twenty-five** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.61% of excess over $27,900
Over $161,550 but not over $323,200	$8,700 plus 6.09% of excess over $161,550
Over $323,200 but not over $2,155,350	$18,544 plus 6.85% of excess over $323,200
Over $2,155,350	$144,047 plus 8.82% of excess over $2,155,350

(viii) For taxable years beginning after two thousand [~~twenty-four~~] **twenty-five** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $17,150	4% of the New York taxable income
Over $17,150 but not over $23,600	$686 plus 4.5% of excess over $17,150
Over $23,600 but not over $27,900	$976 plus 5.25% of excess over $23,600
Over $27,900 but not over $161,550	$1,202 plus 5.5% of excess over $27,900
Over $161,550 but not over $323,200	$8,553 plus 6.00% of excess over $161,550
Over $323,200	$18,252 plus 6.85% of excess over $323,200

§ 2. Clauses (iii), (iv), (v), (vi), (vii) and (viii) of subparagraph (B) of paragraph 1 of subsection (b) of section 601 of the tax law, clauses (iii), (iv), (v), (vi) and (vii) as amended by section 2 of part P of chapter 59 of the laws of 2019 and clause (viii) as added by section 2 of part R of chapter 59 of the laws of 2017, are amended to read as follows:

(iii) For taxable years beginning in two thousand twenty **and two thousand twenty-one** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $32,200	$901 plus 5.9% of excess over $20,900
Over $32,200 but not over $107,650	$1,568 plus 6.09% of excess over $32,200
Over $107,650 but not over $269,300	$6,162 plus 6.41% of excess over $107,650
Over $269,300 but not over $1,616,450	$16,524 plus 6.85% of excess over $269,300
Over $1,616,450	$108,804 plus 8.82% of excess over $1,616,450

(iv) For taxable years beginning in two thousand [~~twenty-one~~] **twenty-two** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $32,200	$901 plus 5.9% of excess over $20,900
Over $32,200 but not over $107,650	$1,568 plus 5.97% of excess over $32,200
Over $107,650 but not over $269,300	$6,072 plus 6.33% of excess over $107,650
Over $269,300 but not over $1,616,450	$16,304 plus 6.85% of excess over $269,300
Over $1,616,450	$108,584 plus 8.82% of excess over $1,616,450

(v) For taxable years beginning in two thousand [~~twenty-two~~] **twenty-three** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.85% of excess over $20,900
Over $107,650 but not over $269,300	$5,976 plus 6.25% of excess over $107,650
Over $269,300 but not over $1,616,450	$16,079 plus 6.85% of excess over $269,300
Over $1,616,450	$108,359 plus 8.82% of excess over $1,616,450

(vi) For taxable years beginning in two thousand [~~twenty-three~~] twenty-four the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.73% of excess over $20,900
Over $107,650 but not over $269,300	$5,872 plus 6.17% of excess over $107,650
Over $269,300 but not over $1,616,450	$15,845 plus 6.85% of excess over $269,300
Over $1,616,450	$108,125 plus 8.82% of excess over $1,616,450

(vii) For taxable years beginning in two thousand [~~twenty-four~~] twenty-five the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.61% of excess over $20,900
Over $107,650 but not over $269,300	$5,768 plus 6.09% of excess over $107,650
Over $269,300 but not over $1,616,450	$15,612 plus 6.85% of excess over $269,300
Over $1,616,450	$107,892 plus 8.82% of excess over $1,616,450

(viii) For taxable years beginning after two thousand [~~twenty-four~~] twenty-five the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $12,800	4% of the New York taxable income
Over $12,800 but not over $17,650	$512 plus 4.5% of excess over $12,800
Over $17,650 but not over $20,900	$730 plus 5.25% of excess over $17,650
Over $20,900 but not over $107,650	$901 plus 5.5% of excess over

	$20,900
Over $107,650 but not over $269,300	$5,672 plus 6.00% of excess over $107,650
Over $269,300	$15,371 plus 6.85% of excess over $269,300

§ 3. Clauses (iii), (iv), (v), (vi), (vii) and (viii) of subparagraph (B) of paragraph 1 of subsection (c) of section 601 of the tax law, clauses (iii), (iv), (v), (vi) and (vii) as amended by section 3 of part P of chapter 59 of the laws of 2019 and clause (viii) as added by section 3 of part R of chapter 59 of the laws of 2017, are amended to read as follows:

(iii) For taxable years beginning in two thousand twenty **and two thousand twenty-one** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $21,400	$600 plus 5.9% of excess over $13,900
Over $21,400 but not over $80,650	$1,042 plus 6.09% of excess over $21,400
Over $80,650 but not over $215,400	$4,650 plus 6.41% of excess over $80,650
Over $215,400 but not over $1,077,550	$13,288 plus 6.85% of excess over $215,400
Over $1,077,550	$72,345 plus 8.82% of excess over $1,077,550

(iv) For taxable years beginning in two thousand [~~twenty-one~~] **twenty-two** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $21,400	$600 plus 5.9% of excess over $13,900
Over $21,400 but not over $80,650	$1,042 plus 5.97% of excess over $21,400
Over $80,650 but not over $215,400	$4,579 plus 6.33% of excess over $80,650
Over $215,400 but not over $1,077,550	$13,109 plus 6.85% of excess over $215,400
Over $1,077,550	$72,166 plus 8.82% of excess over $1,077,550

(v) For taxable years beginning in two thousand [~~twenty-two~~] **twenty-three** the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.85% of excess over

	$13,900
Over $80,650 but not over $215,400	$4,504 plus 6.25% of excess over $80,650
Over $215,400 but not over $1,077,550	$12,926 plus 6.85% of excess over $215,400
Over $1,077,550	$71,984 plus 8.82% of excess over $1,077,550

(vi) For taxable years beginning in two thousand [~~twenty-three~~] twenty-four the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.73% of excess over $13,900
Over $80,650 but not over $215,400	$4,424 plus 6.17% of excess over $80,650
Over $215,400 but not over $1,077,550	$12,738 plus 6.85% of excess over $215,400
Over $1,077,550	$71,796 plus 8.82% of excess over $1,077,550

(vii) For taxable years beginning in two thousand [~~twenty-four~~] twenty-five the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.61% of excess over $13,900
Over $80,650 but not over $215,400	$4,344 plus 6.09% of excess over $80,650
Over $215,400 but not over $1,077,550	$12,550 plus 6.85% of excess over $215,400
Over $1,077,550	$71,608 plus 8.82% of excess over $1,077,550

(viii) For taxable years beginning after two thousand [~~twenty-four~~] twenty-five the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over $8,500	4% of the New York taxable income
Over $8,500 but not over $11,700	$340 plus 4.5% of excess over $8,500
Over $11,700 but not over $13,900	$484 plus 5.25% of excess over $11,700
Over $13,900 but not over $80,650	$600 plus 5.50% of excess over $13,900
Over $80,650 but not over $215,400	$4,271 plus 6.00% of excess over $80,650
Over $215,400	$12,356 plus 6.85% of excess over $215,400

§ 4. Subparagraph (D) of paragraph 1 of subsection (d-1) of section 601 of the tax law, as amended by section 4 of part P of chapter 59 of the laws of 2019, is amended to read as follows:

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over two million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-five~~] twenty-six.

§ 5. Subparagraph (C) of paragraph 2 of subsection (d-1) of section 601 of the tax law, as amended by section 5 of part P of chapter 59 of the laws of 2019, is amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million five hundred thousand dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-five~~] twenty-six.

§ 6. Subparagraph (C) of paragraph 3 of subsection (d-1) of section 601 of the tax law, as amended by section 6 of part P of chapter 59 of the laws of 2019, is amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (c) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (c) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-five~~] twenty-six.

§ 7. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and

methods in regard to taxable years beginning in 2021 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Any such changes in withholding tables and methods for tax year 2021 shall be adopted and effective as soon as practicable. The commissioner of taxation and finance may make similar changes to withholding tables and methods. The withholding tables and methods for tax year 2021 shall not be prescribed by regulation, notwithstanding any provision of the state administrative procedure act to the contrary.

§ 8. The additions to tax imposed by subsection (c) of section 685 of the tax law shall not apply to any installments of estimated tax due on or before September fifteenth, two thousand twenty-one if the underpayment is the result of the enactment of the tax rates for the tax year two thousand twenty-one prescribed by this act.

§ 9. This act shall take effect immediately.

PART C

Section 1. The tax law is amended by adding a new article 24-A to read as follows:

ARTICLE 24-A
PASS-THROUGH ENTITY TAX

Section 860. Definitions.
861. Pass-through entity tax election.
862. Imposition and rate of tax.
863. Pass-through entity tax credit.
864. Payment of estimated tax.
865. Filing of return and payment of tax.
866. Accounting periods and methods.
867. Procedural provisions.

§ 860. Definitions. For purposes of this article:

(a) Eligible partnership. Eligible partnership means any partnership as provided for in section 7701(a)(2) of the Internal Revenue Code that consists solely of partners who are individuals. An eligible partnership includes any limited liability company treated as a partnership for federal income tax purposes that otherwise meets the requirements of this subdivision.

(b) Eligible S corporation. Eligible S corporation means any New York S corporation as defined pursuant to this chapter that consists solely of shareholders who are individuals. An eligible S corporation includes any limited liability company treated as an S corporation for federal income tax purposes that otherwise meets the requirements of this subdivision.

(c) Electing partnership. Electing partnership means any eligible partnership that made a valid, timely election pursuant to section eight hundred sixty-one of this article.

(d) Electing S corporation. Electing S corporation means any eligible S corporation that made a valid, timely election pursuant to section eight hundred sixty-one of this article.

(e) Taxpayer. Taxpayer means any electing partnership or electing S corporation.

(f) Pass-through entity tax. Pass-through entity tax means the total tax imposed by this article on electing partnerships and electing S corporations.

(g) Pass-through adjusted net income (not less than zero). Pass-through adjusted net income (not less than zero) means:

(1) In the case of an electing partnership, the sum of (i) federal taxable income (not less than zero), as described in section 702(a)(8) of the Internal Revenue Code, to the extent earned directly by such partnership; (ii) taxes paid or incurred during the taxable year pursuant to this article by a partnership to the extent deducted in computing federal taxable income; (iii) taxes substantially similar to the tax imposed pursuant to this article paid or incurred during the taxable year to another state of the United States, a political subdivision of such state, or the District of Columbia to the extent deducted in computing federal taxable income; and (iv) guaranteed payments paid by the partnership to its partners as described in section 707(c) of the Internal Revenue Code.

(2) In the case of an electing S corporation, the sum of (i) federal nonseparately computed income (not less than zero), as described in section 1366(a)(2) of the Internal Revenue Code, whether earned by such S corporation or by a partnership of which the S corporation is a partner; (ii) taxes paid or incurred during the taxable year pursuant to this article by an S corporation to the extent deducted in computing federal ordinary income; and (iii) taxes substantially similar to the tax imposed pursuant to this article paid or incurred during the taxable year to another state of the United States, a political subdivision of such state, or the District of Columbia to the extent deducted in computing federal taxable income.

(h) Partnership taxable income. Partnership taxable income of an electing partnership means the sum of (1) the electing partnership's pass-through adjusted net income (not less than zero), allocated to New York State pursuant to subdivision (b) of section eight hundred sixty-two of this article; and (2) the electing partnership's proportionate share of any pass-through adjusted net income (not less than zero) from a partnership of which it is a partner to the extent it was sourced to New York by such partnership pursuant to the principles of article twenty-two of this chapter.

(i) S corporation taxable income. S corporation taxable income of an electing S corporation means the electing S corporation's pass-through adjusted net income (not less than zero) allocated to New York State pursuant to subdivision (c) of section eight hundred sixty-two of this article.

§ 861. Pass-through entity tax election. (a) Any eligible partnership or eligible S corporation doing business within this state shall be allowed to make an annual election to be taxed pursuant to this article.

(b) In order to be effective, the annual election must be made (1) if the entity is an S corporation, by any officer, manager or shareholder of the S corporation who is authorized under the law of the state where the corporation is incorporated or under the S corporation's organizational documents to make the election and who represents to having such authorization under penalty of perjury; or (2) if the entity is not an S corporation, by any member, partner, owner, or other individual with authority to bind the entity or sign returns pursuant to section six hundred fifty-three of this chapter.

(c) If the eligible partnership or eligible S corporation reports on a calendar year basis, the annual election must be made by December first of each calendar year and will take effect for the immediately succeeding calendar year. If an election is made after December first of a

calendar year, it will first take effect in the second succeeding calendar year.

(d) If the eligible partnership or eligible S corporation reports on a fiscal year basis, the annual election must be made by the first day of the last full month prior to the start of the fiscal year and will take effect for the immediately succeeding fiscal year. If an election is made after such date, it will first take effect in the second succeeding fiscal year.

(e) (1) Termination of election. An election pursuant to subdivision (a) of this section shall be terminated whenever, at any time during the taxable year, the taxpayer ceases to be an eligible partnership or eligible S corporation.

(2) Effective date of termination. The termination of an election is effective immediately upon the taxpayer ceasing to be an eligible partnership or eligible S corporation and no tax will be due pursuant to this article for the taxable year.

(3) Abatement of penalties. If a termination occurs pursuant to this subdivision solely because a partner, member or shareholder of an otherwise eligible partnership or eligible S corporation died during the taxable year and the successor to the decedent's interest in the partnership or S corporation is not an individual, no addition to tax will be imposed pursuant to subsection (c) of section six hundred eighty-five of this chapter on the partners, members and shareholders of such partnership or S corporation solely for underpayment of estimated personal income tax as a result of the termination of the election made pursuant to this article.

§ 862. Imposition and rate of tax. (a) General. A tax is hereby imposed for each taxable year on the partnership taxable income of every electing partnership doing business within this state and on the S corporation taxable income of every electing S corporation doing business within this state. This tax shall be in addition to any other taxes imposed and shall be at the rate of six and eighty-five hundredths percent for each taxable year beginning on or after January first, two thousand twenty-two.

(b) Allocation to New York by an electing partnership. In determining the amount of partnership taxable income, the adjusted net income of the electing partnership shall be allocated to this state pursuant to the principles of article twenty-two of this chapter.

(c) Allocation to New York by an electing S corporation. In determining the amount of S corporation taxable income, the adjusted net income of the electing S corporation shall be allocated to this state by multiplying the adjusted net income of the electing S corporation by the business apportionment factor of the electing S corporation as calculated pursuant to section two hundred ten-A of this chapter.

§ 863. Pass-through entity tax credit. An individual subject to tax under article twenty-two of this chapter that is a partner or member in an electing partnership or a shareholder of an electing S corporation subject to tax under this article shall be allowed a credit against the tax imposed pursuant to article twenty-two of this chapter, computed pursuant to the provisions of subsection (kkk) of section six hundred six of this chapter.

§ 864. Payment of estimated tax. (a) Definition of estimated tax. Estimated tax means the amount that an electing partnership or electing S corporation estimates to be the tax imposed by section eight hundred sixty-two of this article for the current taxable year.

(b) General. The estimated tax shall be paid as follows for an electing partnership and an electing S corporation that reports on a calendar year basis:

(1) The estimated tax shall be paid in four equal installments on March fifteenth, June fifteenth, September fifteenth and December fifteenth.

(2) The amount of any required installment shall be twenty-five percent of the required annual payment.

(3) The required annual payment is the lesser of: (A) ninety percent of the tax shown on the return for the taxable year; or (B) one hundred percent of the tax shown on the return of the electing partnership or electing S corporation for the preceding taxable year.

(c) Application to short taxable year. This section shall apply to a taxable year of less than twelve months in accordance with procedures established by the commissioner.

(d) Fiscal year. This section shall apply to a taxable year other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in this section.

(e) Installments paid in advance. An electing partnership or electing S corporation may elect to pay any installment of its estimated tax prior to the date prescribed for the payment thereof.

§ 865. Filing of return and payment of tax. (a) General. On or before the fifteenth day of the third month following the close of the taxable year, each electing partnership and each electing S corporation must file a return for the taxable year reporting the information required pursuant to this article.

(b) Certification of eligibility. Every return filed pursuant to subdivision (a) of this section shall include, in a format as prescribed by the commissioner, a certification by an individual authorized to act on behalf of the electing partnership or electing S corporation that the taxpayer:

(1) made a timely, valid election to be subject to tax pursuant to this article;

(2) was at all times during the taxable year eligible to make such an election, unless such return includes a notification of termination as provided for in subdivision (c) of this section; and

(3) that all statements contained therein are true.

(c) Notification of termination. If an election is terminated during the taxable year pursuant to subdivision (e) of section eight hundred sixty-one of this article, the electing partnership or electing S corporation is required to file a return pursuant to subdivision (a) of this section notifying the commissioner of such termination. Such notification will be considered a claim for a credit or refund of an overpayment of pass-through entity tax of any estimated payments made pursuant to this article for the taxable year containing the date of termination.

(d) Information on return. Each electing partnership and electing S corporation shall report on such return:

(1) The balance of any tax shown on such return, not previously paid as installments of estimated tax, shall be paid with such return;

(2) Identifying information of all partners, members and/or shareholders eligible to receive a credit pursuant to section eight hundred sixty three and such partner's, member's and/or shareholder's distributive or pro rata share of the pass-through entity tax imposed on the electing partnership or S corporation; and

(3) Any other information as required by the commissioner.

(e) Information provided to partners. Each electing partnership subject to tax under this article shall report to each partner or member its distributive share of:

(1) the partnership taxable income of the electing partnership;

(2) the pass-through entity tax imposed on the electing partnership; and

(3) any other information as required by the commissioner.

(f) Information provided to shareholders. Each electing S corporation subject to tax under this article shall report to each shareholder its pro rata share of:

(1) the S corporation taxable income of the electing S corporation;

(2) the pass-through entity tax imposed on the electing S corporation; and

(3) any other information as required by the commissioner.

§ 866. Accounting periods and methods. (a) Accounting periods. An electing partnership's or electing S corporation's taxable year pursuant to this article shall be the same as the electing partnership's or electing S corporation's taxable year for federal income tax purposes.

(b) Accounting methods. An electing partnership's or electing S corporation's method of accounting pursuant to this article shall be the same as the electing partnership's or electing S corporation's method of accounting for federal income tax purposes.

(c) Change of accounting period or method. (1) If an electing partnership's or electing S corporation's taxable year or method of accounting is changed for federal income tax purposes, the taxable year or method of accounting for purposes of this article shall be similarly changed.

(2) If an electing partnership's or electing S corporation's method of accounting is changed, any additional tax that results from adjustments determined to be necessary solely by reason of such change shall not be greater than if such adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable years, not in excess of two, during which the entity used the method of accounting from which the change is made.

§ 867. Procedural provisions. (a) General. All provisions of article twenty-two of this chapter will apply to the provisions of this article in the same manner and with the same force and effect as if the language of article twenty-two of this chapter had been incorporated in full into this article and had been specifically adjusted for and expressly referred to the tax imposed by this article, except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to this article. Notwithstanding the preceding sentence, no credit against tax in article twenty-two of this chapter can be used to offset the tax due pursuant to this article.

(b) Cross Article filings. Notwithstanding any other provisions of this article:

(1) The commissioner may require the filing of one return which, in addition to the return provided for in section eight hundred sixty-five of this article, may also include any of the returns required to be filed by a taxpayer pursuant to the provisions of subsection (c) of section six hundred fifty-eight or article nine-A of this chapter.

(2) Where such return is required, the commissioner may also require the payment with it of a single amount which shall equal the total of the amounts (total taxes less any credits or refunds) that would have been required to be paid with the returns pursuant to the provisions of this article and the provisions of article twenty-two of this chapter or

the provisions of article nine-A of this chapter, whichever is applicable.

(3) Notwithstanding any other law to the contrary, the commissioner may require that all forms or returns pursuant to this article must be filed electronically and all payments of tax must be paid electronically.

(c) Liability for tax. An electing partnership or electing S corporation shall be liable for the tax due pursuant to this article. In addition, every individual eligible to claim a credit pursuant to subsection (kkk) of section six hundred six of this chapter because he or she is a partner or member in an electing partnership or a shareholder in an electing S corporation shall be jointly and severally liable for the tax imposed pursuant to this article on such electing partnership or electing S corporation.

(d) Deposit and disposition of revenue. All taxes, interest, penalties, and fees collected or received by the commissioner pursuant to this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter.

(e) Secrecy provision. All the provisions of paragraphs one and two of subsection (e) of section six hundred ninety-seven of this chapter will apply to the provisions of this article. Notwithstanding any provisions of this chapter to the contrary, the commissioner may disclose information and returns regarding the calculation and payment of the tax imposed by this article and any credit calculated on taxes paid pursuant to this article by an electing partnership or electing S corporation to a partner, member or shareholder of such entity.

§ 2. Section 606 of the tax law is amended by adding a new subsection (kkk) to read as follows:

(kkk) Credit for pass-through entity tax. (1) A taxpayer partner or member of an electing partnership and a taxpayer shareholder of an electing S corporation subject to tax under article twenty-four-A of this chapter shall be entitled to a credit against the tax imposed by this article as provided in this subsection. For purposes of this subsection, the terms "electing partnership," "electing S corporation," and "pass-through entity tax" shall have the same meanings as used in article twenty-four-A of this chapter.

(2) The credit shall be equal to the product of:

(i) the taxpayer's profit percentage of the electing partnership or pro rata share of the electing S corporation;

(ii) ninety-two percent; and

(iii) the pass-through entity tax paid by the electing partnership or S corporation for the taxable year.

(3) If a taxpayer is a partner, member or shareholder in multiple electing partnerships and/or electing S corporations subject to tax pursuant to article twenty-four-A of this chapter, the taxpayer's credit shall be the sum of such credits calculated pursuant to paragraph two of this subsection with regard to each entity in which the taxpayer has a direct ownership interest.

(4) If the amount of the credit allowable pursuant to this subsection for any taxable year exceeds the tax due for such year pursuant to this article, the excess shall be treated as an overpayment, to be credited or refunded, without interest.

§ 3. Section 620 of the tax law, as amended by chapter 2 of the laws of 1962, subsection (a) as amended and paragraph 3 of subsection (b) as added by chapter 274 of the laws of 1987, and subsection (d) as added by chapter 166 of 1991, is amended to read as follows:

§ 620. Credit for income tax of another state. (a) General. A resident shall be allowed a credit against the tax otherwise due under this article for any income tax imposed **on such individual** for the taxable year by another state of the United States, a political subdivision of such state, the District of Columbia or a province of Canada, upon income both derived therefrom and subject to tax under this article. The term "income tax imposed" in the previous sentence shall not include the portion of such tax (determined in the manner provided for in section six hundred twenty-A) which is imposed upon the ordinary income portion (or part thereof) of a lump sum distribution which is subject to the separate tax imposed by section [~~six hundred one-C~~] **six hundred three**.

(b) **Pass-through entity taxes. (1) A resident shall be allowed a credit against the tax otherwise due pursuant to this article for any pass-through entity tax substantially similar to the tax imposed pursuant to article twenty-four-A of this chapter imposed on the income of a partnership or S corporation of which the resident is a partner, member or shareholder for the taxable year by another state of the United States, a political subdivision of such state, or the District of Columbia upon income both derived therefrom and subject to tax under this article.**

(2) Such credit shall be equal to the product of:

(A) the taxpayer's profit percentage of the electing partnership or pro rata share of the electing S corporation;

(B) ninety-two percent; and

(C) the pass-through entity tax paid by the electing partnership or S corporation to such other state, political subdivision of such other state or the District of Columbia.

(3) However, such credit will be allowed on tax paid only if:

(A) the state of the United States, political subdivision of such state, or the District of Columbia imposing such tax also imposes an income tax substantially similar to the tax imposed under this article; and

(B) in the case of taxes paid by an S corporation, such S corporation was treated as a New York S corporation.

(c) Limitations. (1) The credit under this section shall not exceed the percentage of the tax otherwise due under this article determined by dividing the portion of the taxpayer's New York income subject to taxation by such other jurisdiction by the total amount of the taxpayer's New York income.

(2) The credit under this section shall not reduce the tax otherwise due under this article to an amount less than would have been due if the income subject to taxation by such other jurisdiction were excluded from the taxpayer's New York income.

(3) In the case of a taxpayer who elects to claim the foreign tax credit for federal income tax purposes, the credit under this section for income tax imposed by a province of Canada shall be allowed for that portion of the provincial tax not claimed for federal purposes for the taxable year or a preceding taxable year, provided however, to the extent the provincial tax is claimed for federal purposes for a succeeding taxable year, the credit under this section must be added back in such succeeding taxable year. The provincial tax shall be deemed to be claimed last for federal income tax purposes and for purposes of this subsection.

[~~(c)~~] **(d)** Definition. For purposes of this section New York income means:

(1) the New York adjusted gross income of an individual, or

(2) the amount of the income of an estate or trust, determined as if the estate or trust were an individual computing his New York adjusted gross income under section six hundred twelve.

[~~(d) S corporation shareholders. In the case of a shareholder of an S corporation, the term "income tax" in subsection (a) of this section shall not include any such tax imposed upon or payable by the corporation, but shall include any such tax with respect to the income of the corporation imposed upon or payable by the shareholder, without regard to whether an election independent of the federal S election was required to effect such imposition upon the shareholder.~~]

§ 4. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, **twenty-four-a,** twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such

amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 5. Subdivision 1 of section 171-a of the tax law, as amended by section 4 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two there-

of), twenty-D, twenty-one, twenty-two, twenty-four, **twenty-four-a,** twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that

is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 6. Subdivisions 2, 3 and paragraph (a) of subdivision 5 of section 92-z of the state finance law, as amended by section 5 of part MM of chapter 59 of the laws of 2018, are amended to read as follows:

2. Such fund shall consist of (a) fifty percent of receipts from the imposition of personal income taxes pursuant to article twenty-two of the tax law, less such amounts as the commissioner of taxation and finance may determine to be necessary for refunds, [~~and~~] (b) fifty percent of receipts from the imposition of employer compensation expense taxes pursuant to article twenty-four of the tax law, less such amounts as the commissioner of taxation and finance may determine to be necessary for refunds**, and (c) fifty percent of receipts from the imposition of the pass-through entity taxes pursuant to article twenty-four-A of the tax law, less such amounts as the commission of taxation and finance may determine to be necessary for refunds**.

3. (a) Beginning on the first day of each month, the comptroller shall deposit all of the receipts collected pursuant to section six hundred seventy-one of the tax law in the revenue bond tax fund until the amount of monthly receipts anticipated to be deposited pursuant to the certificate required in paragraph (b) of subdivision five of this section are met. On or before the twelfth day of each month, the commissioner of taxation and finance shall certify to the state comptroller the amounts specified in paragraph (a) of subdivision two of this section relating to the preceding month and, in addition, no later than March thirty-first of each fiscal year the commissioner of taxation and finance shall certify such amounts relating to the last month of such fiscal year. The amounts so certified shall be deposited by the state comptroller in the revenue bond tax fund.

(b) Beginning on the first day of each month, the comptroller shall deposit all of the receipts collected pursuant to section eight hundred fifty-four of the tax law in the revenue bond tax fund until the amount of monthly receipts anticipated to be deposited pursuant to the certificate required in paragraph (b) of subdivision five of this section are met. On or before the twelfth day of each month, the commissioner of

taxation and finance shall certify to the state comptroller the amounts specified in paragraph (b) of subdivision two of this section relating to the preceding month and, in addition, no later than March thirty-first of each fiscal year the commissioner of taxation and finance shall certify such amounts relating to the last month of such fiscal year. The amounts so certified shall be deposited by the state comptroller in the revenue bond tax fund.

(c) Beginning on the first day of each month, the comptroller shall deposit all of the receipts collected pursuant to sections eight hundred sixty-four and eight hundred sixty-five of the tax law in the revenue bond tax fund until the amount of monthly receipts anticipated to be deposited pursuant to the certificate required in paragraph (b) of subdivision five of this section are met. On or before the twelfth day of each month, the commissioner of taxation and finance shall certify to the state comptroller the amounts specified in paragraph (c) of subdivision two of this section relating to the preceding month and, in addition, no later than March thirty-first of each fiscal year the commissioner of taxation and finance shall certify such amounts relating to the last month of such fiscal year. The amounts so certified shall be deposited by the state comptroller in the revenue bond tax fund.

(a) The state comptroller shall from time to time, but in no event later than the fifteenth day of each month (other than the last month of the fiscal year) and no later than the thirty-first day of the last month of each fiscal year, pay over and distribute to the credit of the general fund of the state treasury all moneys in the revenue bond tax fund, if any, in excess of the aggregate amount required to be set aside for the payment of cash requirements pursuant to paragraph (b) of this subdivision, provided that an appropriation has been made to pay all amounts specified in any certificate or certificates delivered by the director of the budget pursuant to paragraph (b) of this subdivision as being required by each authorized issuer as such term is defined in section sixty-eight-a of this chapter for the payment of cash requirements of such issuers for such fiscal year. Subject to the rights of holders of debt of the state, in no event shall the state comptroller pay over and distribute any moneys on deposit in the revenue bond tax fund to any person other than an authorized issuer pursuant to such certificate or certificates (i) unless and until the aggregate of all cash requirements certified to the state comptroller as required by such authorized issuers to be set aside pursuant to paragraph (b) of this subdivision for such fiscal year shall have been appropriated to such authorized issuers in accordance with the schedule specified in the certificate or certificates filed by the director of the budget or (ii) if, after having been so certified and appropriated, any payment required to be made pursuant to paragraph (b) of this subdivision has not been made to the authorized issuers which was required to have been made pursuant to such certificate or certificates; provided, however, that no person, including such authorized issuers or the holders of revenue bonds, shall have any lien on moneys on deposit in the revenue bond tax fund. Any agreement entered into pursuant to section sixty-eight-c of this chapter related to any payment authorized by this section shall be executory only to the extent of such revenues available to the state in such fund. Notwithstanding subdivisions two and three of this section, in the event the aggregate of all cash requirements certified to the state comptroller as required by such authorized issuers to be set aside pursuant to paragraph (b) of this subdivision for the fiscal year beginning on April first shall not have been appropriated to

such authorized issuers in accordance with the schedule specified in the certificate or certificates filed by the director of the budget or, (ii) if, having been so certified and appropriated, any payment required to be made pursuant to paragraph (b) of this subdivision has not been made pursuant to such certificate or certificates, all receipts collected pursuant to section six hundred seventy-one of the tax law, [~~and~~] section eight hundred fifty-four of the tax law, section eight hundred sixty-four of the tax law, and section eight hundred sixty-five of the tax law shall be deposited in the revenue bond tax fund until the greater of forty percent of the aggregate of the receipts from the imposition of (A) the personal income tax imposed by article twenty-two of the tax law, [~~and~~] (B) the employer compensation expense tax imposed by article twenty-four of the tax law, and (C) the pass-through entity tax imposed by article twenty-four-A of the tax law for the fiscal year beginning on April first and as specified in the certificate or certificates filed by the director of the budget pursuant to this paragraph or a total of twelve billion dollars has been deposited in the revenue bond tax fund. Notwithstanding any other provision of law, if the state has appropriated and paid to the authorized issuers the amounts necessary for the authorized issuers to meet their requirements for the current fiscal year pursuant to the certificate or certificates submitted by the director of the budget pursuant to paragraph (b) of this section, the state comptroller shall, on the last day of each fiscal year, pay to the general fund of the state all sums remaining in the revenue bond tax fund on such date except such amounts as the director of the budget may certify are needed to meet the cash requirements of authorized issuers during the subsequent fiscal year.

§ 7. Subdivision 5 of section 68-c of the state finance law, as amended by section 6 of part MM of chapter 59 of the laws of 2018, is amended to read as follows:

5. Nothing contained in this article shall be deemed to restrict the right of the state to amend, repeal, modify or otherwise alter statutes imposing or relating to the taxes imposed pursuant to article twenty-two, [~~and~~] article twenty-four, and article twenty-four-A of the tax law. The authorized issuers shall not include within any resolution, contract or agreement with holders of the revenue bonds issued under this article any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter the taxes imposed pursuant to article twenty-two, [~~and~~] article twenty-four, and article twenty-four-A of the tax law.

§ 8. This act shall take effect immediately and shall apply to all taxable years beginning on or after January 1, 2022; provided, however, that the amendments to subdivision 1 of section 171-a of the tax law made by section four of this act shall not affect the expiration of such subdivision and shall expire therewith, when upon such date the provisions of section five of this act shall take effect.

PART D

Section 1. Section 352 of the economic development law is amended by adding two new subdivisions 5-a and 13-a to read as follows:

5-a. "Child care services" means those services undertaken or sponsored by a participant in this program meeting the requirements of "child day care" as defined in paragraph (a) of subdivision one of section three hundred ninety of the social services law or any child care services in the city of New York whereby a permit to operate such

child care services is required pursuant to the health code of the city of New York.

13-a. "Net new child care services expenditures" means the calculation of new, annual participant expenditures on child care services whether internal or provided by a third party (including coverage for full or partial discount of employee rates), minus any revenues received by the participant through a third-party operator (i.e. rent paid to the participant by the child care provider) or employees and may be further defined by the commissioner in regulations. For the purposes of this definition, expenditures for child care services that a participant has incurred prior to admission to this program shall not be eligible for the credit.

§ 2. Paragraphs (k) and (l) of subdivision 1 of section 353 of the economic development law, as amended by section 2 of part L of chapter 59 of the laws of 2020, are amended and a new paragraph (m) is added to read as follows:

(k) as a life sciences company; [~~or~~]

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

(m) as a participant operating in one of the industries listed in paragraphs (a) through (k) of this subdivision and operating or sponsoring child care services to its employees as defined in section three hundred fifty-two of this article.

§ 3. Subdivisions 2 and 6 of section 355 of the economic development law, subdivision 2 as amended by section 4 of part L of chapter 59 of the laws of 2020 and subdivision 6 as amended by section 4 of part K of chapter 59 of the laws of 2015, are amended and a new subdivision 2-a is added to read as follows:

2. Excelsior investment tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit on qualified investments. In a project that is not a green project, the credit shall be equal to two percent of the cost or other basis for federal income tax purposes of the qualified investment. In a green project, the credit shall be equal to five percent of the cost or other basis for federal income tax purposes of the qualified investment. In a project for child care services, the credit shall be equal to five percent of the cost or other basis for federal income tax purposes of the qualified investment in child care services. A participant may not claim both the excelsior investment tax credit component and the investment tax credit set forth in subdivision one of section two hundred ten-B, subsection (a) of section six hundred six, the former subsection (i) of section fourteen hundred fifty-six, or subdivision (q) of section fifteen hundred eleven of the tax law for the same property in any taxable year, except that a participant may claim both the excelsior investment tax credit component and the investment tax credit for research and development property. In addition, a taxpayer who or which is qualified to claim the excelsior investment tax credit component and is also qualified to claim the brownfield tangible property credit component under section twenty-one of the tax law may claim either the excelsior investment tax credit component or such tangible property credit component, but not both with regard to a particular piece of property. A credit may not be claimed until a business enterprise has received a certificate of tax credit, provided that qualified investments made on or after the issuance of the certificate of eligibility but before the issuance of the certificate of

tax credit to the business enterprise, may be claimed in the first taxable year for which the business enterprise is allowed to claim the credit. Expenses incurred prior to the date the certificate of eligibility is issued are not eligible to be included in the calculation of the credit.

2-a. Excelsior child care services tax credit component. A participant engaging in a new excelsior jobs program project shall be eligible to claim a credit on its net new child care services expenditures for its operation, sponsorship or direct financial support of a child care services program. The credit shall be equal to six percent of the net new child care services expenditures as defined in this chapter.

6. Claim of tax credit. The business enterprise shall be allowed to claim the credit as prescribed in section thirty-one of the tax law. No costs used by an entertainment company as the basis for the allowance of a tax credit described in this section shall be used by such entertainment company to claim any other credit allowed pursuant to the tax law. **No costs or expenditures for child care services used by a participant to claim the credit as prescribed in section forty-four of the tax law shall be used for the allowance of a tax credit described in this section.**

§ 4. Subdivision (a) of section 31 of the tax law is amended by adding a new paragraph 2-a to read as follows:

(2-a) the excelsior child care services tax credit component;

§ 5. Subdivision (a) of section 44 of the tax law, as added by section 1 of part L of chapter 59 of the laws of 2019, is amended to read as follows:

(a) General. A taxpayer subject to tax under article nine-A, twenty-two, or thirty-three of this chapter shall be allowed a credit against such tax in an amount equal to **two hundred percent of** the portion of the credit that is allowed to the taxpayer under section 45F of the internal revenue code that is attributable to (i) qualified child care expenditures paid or incurred with respect to a qualified child care facility with a situs in the state, and to (ii) qualified child care resource and referral expenditures paid or incurred with respect to the taxpayer's employees working in the state. The credit allowable under this subdivision for any taxable year shall not exceed [~~one hundred fifty~~] **five hundred** thousand dollars. If the entity operating the qualified child care facility is a partnership or a New York S corporation, then such cap shall be applied at the entity level, so the aggregate credit allowed to all the partners or shareholders of such entity in a taxable year does not exceed [~~one hundred fifty~~] **five hundred** thousand dollars.

§ 6. This act shall take effect immediately; provided, however, section five of this act shall apply to taxable years beginning on or after January 1, 2022.

PART E

Section 1. Paragraph (b) of subdivision 2 of section 184 of the tax law, as added by chapter 485 of the laws of 1988, is amended to read as follows:

(b) (1) A corporation classed as a "taxicab" or "omnibus",

(i) which is organized, incorporated or formed under the laws of any other state, country or sovereignty, and

(ii) which neither owns nor leases property in this state in a corporate or organized capacity, nor

(iii) maintains an office in this state in a corporate or organized capacity, but

(iv) which is doing business or employing capital in this state by conducting at least one but fewer than twelve trips into this state during the calendar year, shall [~~annually pay a tax equal to fifteen dollars for each trip conducted into this state~~] **not be taxed under the provisions of this article**. If the only property a corporation owns or leases in this state is a vehicle or vehicles used to conduct trips, it shall not be considered, for purposes of clause (ii) of this subparagraph, to be owning or leasing property in this state.

(2) [~~The commissioner of taxation and finance may prescribe such forms as he may deem necessary to report such tax in a simplified manner.~~

~~(3)~~] For purposes of this subdivision, a corporation classed as a "taxicab" or "omnibus" shall be considered to be conducting a trip into New York state when one of its vehicles enters New York state and transports passengers to, from, or to and from a location in New York state. A corporation shall not be considered to be conducting a trip into New York state if its vehicle only makes incidental stops at locations in the state while in transit from a location outside New York state to another location outside New York state. The number of trips a corporation conducts into New York state shall be calculated by determining the number of trips each vehicle owned, leased or operated by the corporation conducts into New York state and adding those numbers together.

[~~(4) Provided, however, that the provisions of this paragraph shall not apply to any corporation which does not file its franchise tax report in a timely manner (determined with regard to any extension of time for filing).~~]

§ 2. Subdivision 1-A of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1-A. The term "New York S corporation" means, with respect to any taxable year, a corporation subject to tax under this article [~~for which an election is in effect pursuant to~~] **and described in paragraph (i) or (ii) of** subsection (a) of section six hundred sixty of this chapter [~~for such year~~], **and** any such year shall be denominated a "New York S year"[~~, and such election shall be denominated a "New York S election"~~]. The term "New York C corporation" means, with respect to any taxable year, a corporation subject to tax under this article which is not a New York S corporation, and any such year shall be denominated a "New York C year". The term "termination year" means any taxable year of a corporation during which the **corporation's status as a** New York S [~~election~~] **corporation** terminates on a day other than the first day of such year. The portion of the taxable year ending before the first day for which such termination is effective shall be denominated the "S short year", and the portion of such year beginning on such first day shall be denominated the "C short year". The term "New York S termination year" means any termination year which is [~~not~~] also an S termination year for federal purposes.

§ 3. Subdivision 1-B and subparagraph (ii) of the opening paragraph and paragraph (k) of subdivision 9 of section 208 of the tax law are REPEALED.

§ 4. Subparagraph (A) and the opening paragraph of subparagraph (B) of paragraph 5 of subdivision (a) of section 292 of the tax law, as added by section 48 of part A of chapter 389 of the laws of 1997, are amended to read as follows:

(A) In the case of a shareholder of an S corporation,

(i) [~~where the election provided for in~~] **subject to** subsection (a) of section six hundred sixty of this chapter [~~is in effect with respect to such corporation~~], there shall be added to federal unrelated business taxable income an amount equal to the shareholder's pro rata share of the corporation's reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, and

(ii) [~~where such election has not been made with respect to such corporation, there shall be subtracted from federal unrelated business taxable income any items of income of the corporation included therein, and there shall be added to federal unrelated business taxable income any items of loss or deduction included therein, and~~

~~(iii)~~] in the case of a New York S termination year, the amount of any such items of S corporation income, loss, deduction and reductions for taxes shall be adjusted in the manner provided in paragraph two or three of subsection (s) of section six hundred twelve of this chapter.

In the case of a shareholder of a corporation which was, for any of its taxable years beginning after nineteen hundred ninety-seven **and before two thousand twenty-two**, a federal S corporation but a New York C corporation:

§ 5. Paragraph 18 of subsection (b) of section 612 of the tax law, as amended by chapter 606 of the laws of 1984, subparagraph (A) as amended by chapter 28 of the laws of 1987 and subparagraph (B) as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(18) In the case of a shareholder of an S corporation **as described in subsection (a) of section six hundred sixty**

(A) [~~where the election provided for in subsection (a) of section six hundred sixty is in effect with respect to such corporation,~~] an amount equal to his **or her** pro rata share of the corporation's reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, and

(B) in the case of a New York S termination year, subparagraph (A) of this paragraph shall apply to the amount of reductions for taxes determined under subsection (s) of this section.

§ 6. Paragraph 19 of subsection (b) of section 612 of the tax law is REPEALED.

§ 7. Paragraphs 20 and 21 of subsection (b) of section 612 of the tax law, paragraph 20 as amended by chapter 606 of the laws of 1984 and paragraph 21 as amended by section 70 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(20) S corporation distributions to the extent not included in federal gross income for the taxable year because of the application of section thirteen hundred sixty-eight, subsection (e) of section thirteen hundred seventy-one or subsection (c) of section thirteen hundred seventy-nine of the internal revenue code which represent income not previously subject to tax under this article because the election provided for in subsection (a) of section six hundred sixty **in effect for taxable years beginning before January first, two thousand twenty-two** had not been made. Any such distribution treated in the manner described in paragraph two of subsection (b) of section thirteen hundred sixty-eight of the internal revenue code for federal income tax purposes shall be treated as ordinary income for purposes of this article.

(21) In relation to the disposition of stock or indebtedness of a corporation which elected under subchapter s of chapter one of the internal revenue code for any taxable year of such corporation beginning, in the case of a corporation taxable under article nine-A of this

chapter, after December thirty-first, nineteen hundred eighty **and before January first, two thousand twenty-two**, the amount required to be added to federal adjusted gross income pursuant to subsection (n) of this section.

§ 8. Paragraph 21 of subsection (c) of section 612 of the tax law, as amended by section 70 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(21) In relation to the disposition of stock or indebtedness of a corporation which elected under subchapter s of chapter one of the internal revenue code for any taxable year of such corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty **and before January first, two thousand twenty-two**, the amounts required to be subtracted from federal adjusted gross income pursuant to subsection (n) of this section.

§ 9. Paragraph 22 of subsection (c) of section 612 of the tax law is REPEALED.

§ 10. Subsection (e) of section 612 of the tax law, as amended by chapter 166 of the laws of 1991, paragraph 3 as added by chapter 760 of the laws of 1992, is amended to read as follows:

(e) Modifications of partners and shareholders of S corporations. (1) Partners and shareholders of S corporations [~~which are not New York C corporations~~]. The amounts of modifications required to be made under this section by a partner or by a shareholder of an S corporation [~~(other than an S corporation which is a New York C corporation)~~], which relate to partnership or S corporation items of income, gain, loss or deduction shall be determined under section six hundred seventeen and, in the case of a partner of a partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law, under section six hundred seventeen-a of this article.

(2) [~~Shareholders of S corporations which are New York C corporations. In the case of a shareholder of an S corporation which is a New York C corporation, the modifications under this section which relate to the corporation's items of income, loss and deduction shall not apply, except for the modifications provided under paragraph nineteen of subsection (b) and paragraph twenty-two of subsection (c) of this section.~~

~~(3)~~] New York S termination year. In the case of a New York S termination year, the amounts of the modifications required under this section which relate to the S corporation's items of income, loss, deduction and reductions for taxes (as described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code) shall be adjusted in the same manner that the S corporation's items are adjusted under subsection (s) of section six hundred twelve.

§ 11. Subsection (n) of section 612 of the tax law, as amended by section 61 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(n) Where gain or loss is recognized for federal income tax purposes upon the disposition of stock or indebtedness of a corporation electing under subchapter s of chapter one of the internal revenue code

(1) There shall be added to federal adjusted gross income the amount of increase in basis with respect to such stock or indebtedness pursuant to subsection (a) of section thirteen hundred seventy-six of the internal revenue code as such section was in effect for taxable years begin-

ning before January first, nineteen hundred eighty-three and subparagraphs (A) and (B) of paragraph one of subsection (a) of section thirteen hundred sixty-seven of such code, for each taxable year of the corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty **and before January first, two thousand twenty-two**, and in the case of a corporation taxable under **former** article thirty-two of this chapter, after December thirty-first, nineteen hundred ninety-six **and before January first, two thousand fifteen**, for which the election provided for in subsection (a) of section six hundred sixty of this article was not in effect, and

(2) There shall be subtracted from federal adjusted gross income

(A) the amount of reduction in basis with respect to such stock or indebtedness pursuant to subsection (b) of section thirteen hundred seventy-six of the internal revenue code as such section was in effect for taxable years beginning before January first, nineteen hundred eighty-three and subparagraphs (B) and (C) of paragraph two of subsection (a) of section thirteen hundred sixty-seven of such code, for each taxable year of the corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty **and before January first, two thousand twenty-two**, and in the case of a corporation taxable under **former** article thirty-two of this chapter, after December thirty-first, nineteen hundred ninety-six **and before January first, two thousand fifteen**, for which the election provided for in subsection (a) of section six hundred sixty of this article was not in effect and

(B) the amount of any modifications to federal gross income with respect to such stock pursuant to paragraph twenty of subsection (b) of this section.

§ 12. Paragraph 6 of subsection (c) of section 615 of the tax law is REPEALED.

§ 13. Subsection (e) of section 615 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

(e) Modifications of partners and shareholders of S corporations. (1) Partners and shareholders of S corporations [~~which are not New York C corporations~~]. The amounts of modifications under subsection (c) or under paragraph (2) or (3) of subsection (d) required to be made by a partner or by a shareholder of an S corporation [~~(other than an S corporation which is a New York C corporation)~~], with respect to items of deduction of a partnership or S corporation shall be determined under section six hundred seventeen.

(2) [~~Shareholders of S corporations which are New York C corporations. In the case of a shareholder of an S corporation which is a New York C corporation, the modifications under this section which relate to the corporation's items of deduction shall not apply, except for the modification provided under paragraph six of subsection (c).~~

~~(3)~~] New York S termination year. In the case of a New York S termination year, the amounts of the modifications required under this section which relate to the S corporation's items of deduction shall be adjusted in the same manner that the S corporation's items are adjusted under subsection (s) of section six hundred twelve.

§ 14. Subsection (a) of section 617 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(a) Partner's and shareholder's modifications. In determining New York adjusted gross income and New York taxable income of a resident partner or a resident shareholder of an S corporation [~~(other than an S corpo-~~

~~ration which is a New York C corporation)~~], any modification described in subsections (b), (c) or (d) of section six hundred twelve, subsection (c) of section six hundred fifteen or paragraphs (2) or (3) of subsection (d) of such section, which relates to an item of partnership or S corporation income, gain, loss or deduction shall be made in accordance with the partner's distributive share or the shareholder's pro rata share, for federal income tax purposes, of the item to which the modification relates. Where a partner's distributive share or a shareholder's pro rata share of any such item is not required to be taken into account separately for federal income tax purposes, the partner's or shareholder's share of such item shall be determined in accordance with his **or her** share, for federal income tax purposes, of partnership or S corporation taxable income or loss generally. In the case of a New York S termination year, his **or her** pro rata share of any such item shall be determined under subsection (s) of section six hundred twelve.

§ 15. Subparagraph (E-1) of paragraph 1 of subsection (b) of section 631 of the tax law, as added by section 3 of part C of chapter 57 of the laws of 2010, is amended to read as follows:

(E-1) in the case of an S corporation [~~for which an election is in effect pursuant~~] **subject** to subsection (a) of section six hundred sixty of this article that terminates its taxable status in New York, any income or gain recognized on the receipt of payments from an installment sale contract entered into when the S corporation was subject to tax in New York, allocated in a manner consistent with the applicable methods and rules for allocation under article nine-A or **former article** thirty-two of this chapter, in the year that the S corporation sold its assets.

§ 16. The section heading and paragraph 2 of subsection (a) of section 632 of the tax law, the section heading as amended by chapter 606 of the laws of 1984, and paragraph 2 of subsection (a) as amended by section 71 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

Nonresident partners and [~~electing~~] shareholders of S corporations.

(2) In determining New York source income of a nonresident shareholder of an S corporation [~~where the election provided for in~~] **subject to** subsection (a) of section six hundred sixty of this article [~~is in effect~~], there shall be included only the portion derived from or connected with New York sources of such shareholder's pro rata share of items of S corporation income, loss and deduction entering into his **or her** federal adjusted gross income, increased by reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, as such portion shall be determined under regulations of the commissioner consistent with the applicable methods and rules for allocation under article nine-A of this chapter[~~, regardless of whether or not such item or reduction is included in entire net income under article nine-A for the tax year~~]. If a nonresident is a shareholder in an S corporation [~~where the election provided for in~~] **subject to** subsection (a) of section six hundred sixty of this article [~~is in effect~~], and the S corporation has distributed an installment obligation under section 453(h)(1)(A) of the Internal Revenue Code, then any gain recognized on the receipt of payments from the installment obligation for federal income tax purposes will be treated as New York source income allocated in a manner consistent with the applicable methods and rules for allocation under article nine-A of this chapter in the year that the assets were sold. In addition, if the shareholders of the S corporation have made an election under section 338(h)(10) of the Internal Revenue Code, then any gain

recognized on the deemed asset sale for federal income tax purposes will be treated as New York source income allocated in a manner consistent with the applicable methods and rules for allocation under article nine-A of this chapter in the year that the shareholder made the section 338(h)(10) election. For purposes of a section 338(h)(10) election, when a nonresident shareholder exchanges his or her S corporation stock as part of the deemed liquidation, any gain or loss recognized shall be treated as the disposition of an intangible asset and will not increase or offset any gain recognized on the deemed assets sale as a result of the section 338(h)(10) election.

§ 17. Subsection (a) of section 632-a of the tax law, as added by section 1 of part K of chapter 60 of the laws of 2007, is amended to read as follows:

(a) General. If (1) substantially all of the services of a personal service corporation or S corporation are performed for or on behalf of another corporation, partnership, or other entity and (2) the effect of forming or availing of such personal service corporation or S corporation is the avoidance or evasion of New York income tax by reducing the income of, or in the case of a nonresident, reducing the New York source income of, or securing the benefit of any expense, deduction, credit, exclusion, or other allowance for, any employee-owner which would not otherwise be available, then the commissioner may allocate all income, deductions, credits, exclusions, and other allowances between such personal service corporation or S corporation (even if such personal service corporation or S corporation [~~is taxed under article nine-A of this chapter or~~] is not subject to tax in this state) and its employee-owners, provided such allocation is necessary to prevent avoidance or evasion of New York state income tax or to clearly reflect the source and the amount of the income of the personal service corporation or S corporation or any of its employee-owners.

§ 18. Paragraph 2 and subparagraph (A) of paragraph 4 of subsection (c) of section 658 of the tax law, paragraph 2 as amended by chapter 190 of the laws of 1990, and subparagraph (A) of paragraph 4 as amended by section 72 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(2) S corporations. Every S corporation [~~for which the election provided for in~~] **subject to** subsection (a) of section six hundred sixty [~~is in effect~~] shall make a return for the taxable year setting forth all items of income, loss and deduction and such other pertinent information as the commissioner of taxation and finance may by regulations and instructions prescribe. Such return shall be filed on or before the fifteenth day of the third month following the close of each taxable year.

(A) General. Every entity which is a partnership, other than a publicly traded partnership as defined in section 7704 of the federal Internal Revenue Code, subchapter K limited liability company or an S corporation [~~for which the election provided for in subsection (a) of section six hundred sixty of this part is in effect~~], which has partners, members or shareholders who are nonresident individuals, as defined under subsection (b) of section six hundred five of this article, or C corporations, and which has any income derived from New York sources, determined in accordance with the applicable rules of section six hundred thirty-one of this article as in the case of a nonresident individual, shall pay estimated tax on such income on behalf of such partners, members or shareholders in the manner and at the times prescribed by subsection (c) of section six hundred eighty-five of this article. For

purposes of this paragraph, the term "estimated tax" shall mean a partner's, member's or shareholder's distributive share or pro rata share of the entity income derived from New York sources, multiplied by the highest rate of tax prescribed by section six hundred one of this article for the taxable year of any partner, member or shareholder who is an individual taxpayer, or paragraph (a) of subdivision one of section two hundred ten of this chapter for the taxable year of any partner, member or shareholder which is a C corporation, whether or not such C corporation is subject to tax under article nine, nine-A or thirty-three of this chapter, and reduced by the distributive share or pro rata share of any credits determined under section one hundred eighty-seven, one hundred eighty-seven-a, six hundred six or fifteen hundred eleven of this chapter, whichever is applicable, derived from the entity.

§ 19. Section 660 of the tax law, as amended by chapter 606 of the laws of 1984, subsections (a) and (h) as amended by section 73 of part A of chapter 59 of the laws of 2014, paragraph 3 of subsection (b) as amended by section 51, paragraphs 4 and 5 of subsection (b) as added and paragraph 6 of subsection (b) as renumbered by section 52 and subsections (e) and (f) as added and subsection (g) as relettered by section 53 of part A of chapter 389 of the laws of 1997, subsection (d) as added by chapter 760 of the laws of 1992, subsection (i) as added by section 1 of part L of chapter 60 of the laws of 2007 and paragraph 1 of subsection (i) as amended by section 39 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

§ 660. [~~Election by shareholders of S corporations~~] Tax treatment of federal S corporations. (a) [~~Election.~~] If a corporation is an eligible S corporation, the shareholders of the corporation [~~may elect in the manner set forth in subsection (b) of this section to~~] shall take into account, to the extent provided for in this article (or in article thirteen of this chapter, in the case of a shareholder which is a taxpayer under such article), the S corporation items of income, loss, deduction and reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code which are taken into account for federal income tax purposes for the taxable year. [~~No election under this subsection shall be effective unless all shareholders of the corporation have so elected.~~] An eligible S corporation is (i) [~~an S~~] a corporation that has elected to be an S corporation for federal income tax purposes pursuant to section thirteen hundred sixty-two of the internal revenue code which is subject to tax under article nine-A of this chapter, or (ii) [~~an S~~] a corporation that has elected to be an S corporation for federal income tax purposes pursuant to section thirteen hundred sixty-two of the internal revenue code which is the parent of a qualified subchapter S subsidiary as defined in subparagraph (B) of paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code subject to tax under article nine-A[~~, where the shareholders of such parent corporation are entitled to make the election under this subsection by reason of subparagraph three of paragraph (k) of subdivision nine of section two hundred eight~~] of this chapter.

(b) [~~Requirements of election. An election under subsection (a) of this section shall be made on such form and in such manner as the tax commission may prescribe by regulation or instruction.~~

~~(1) When made. An election under subsection (a) of this section may be made at any time during the preceding taxable year of the corporation or at any time during the taxable year of the corporation and on or before the fifteenth day of the third month of such taxable year.~~

~~(2) Certain elections made during first two and one-half months. If an election made under subsection (a) of this section is made for any taxable year of the corporation during such year and on or before the fifteenth day of the third month of such year, such election shall be treated as made for the following taxable year if~~

~~(A) on one or more days in such taxable year before the day on which the election was made the corporation did not meet the requirements of subsection (b) of section thirteen hundred sixty-one of the internal revenue code or~~

~~(B) one or more of the shareholders who held stock in the corporation during such taxable year and before the election was made did not consent to the election.~~

~~(3) Elections made after first two and one-half months. If an election under subsection (a) of this section is made for any taxable year of the corporation and such election is made after the fifteenth day of the third month of such taxable year and on or before the fifteenth day of the third month of the following taxable year, such election shall be treated as made for the following taxable year.~~

~~(4) Taxable years of two and one-half months or less. For purposes of this subsection, an election for a taxable year made not later than two months and fifteen days after the first day of the taxable year shall be treated as timely made during such year.~~

~~(5) Authority to treat late elections, etc., as timely. If (A) an election under subsection (a) of this section is made for any taxable year (determined without regard to paragraph three of this subsection) after the date prescribed by this subsection for making such election for such taxable year, or if no such election is made for any taxable year, and~~

~~(B) the commissioner determines that there was reasonable cause for failure to timely make such election, then~~

~~(C) the commissioner may treat such an election as timely made for such taxable year (and paragraph three of this subsection shall not apply).~~

~~(6) Years for which effective. An election under subsection (a) of this section shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation until such election is terminated under subsection (c) of this section.~~

~~(c)~~] Termination. An [~~election under~~] **eligible S corporation shall cease to be subject to** subsection (a) of this section [~~shall cease to be effective~~

~~(1)~~] on the day an election to be an S corporation ceases to be effective for federal income tax purposes pursuant to subsection (d) of section thirteen hundred sixty-two of the internal revenue code[~~, or~~

~~(2) if shareholders holding more than one-half of the shares of stock of the corporation on the day on which the revocation is made revoke such election in the manner the tax commission may prescribe by regulation,~~

~~(A) on the first day of the taxable year of the corporation, if the revocation is made during such taxable year and on or before the fifteenth day of the third month thereof, or~~

~~(B) on the first day of the following taxable year of the corporation, if the revocation is made during the taxable year but after the fifteenth day of the third month thereof, or~~

~~(C) on and after the date so specified, if the revocation specifies a date for revocation which is on or after the day on which the revocation is made, or~~

~~(3) if any person who was not a shareholder of the corporation on the day on which the election is made becomes a shareholder in the corporation and affirmatively refuses to consent to such election in the manner the tax commission may prescribe by regulation, on the day such person becomes a shareholder~~].

[~~(d)~~] (c) New York S termination year. In the case of a New York S termination year, the amount of any item of S corporation income, loss and deduction and reductions for taxes (as described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code) required to be taken account of under this article shall be adjusted in the same manner that the S corporation's items which are included in the shareholder's federal adjusted gross income are adjusted under subsection (s) of section six hundred twelve.

[~~(e) Inadvertent invalid elections. If (1) an election under subsection (a) of this section was not effective for the taxable year for which made (determined without regard to paragraph two of subsection (b) of this section) by reason of a failure to obtain shareholder consents,~~

~~(2) the commissioner determines that the circumstances resulting in such ineffectiveness were inadvertent,~~

~~(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness, steps were taken to acquire the required shareholder consents, and~~

~~(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as a New York S corporation) as may be required by the commissioner with respect to such period,~~

~~(5) then, notwithstanding the circumstances resulting in such ineffectiveness, such corporation shall be treated as a New York S corporation during the period specified by the commissioner.~~

~~(f)~~] (d) Qualified subchapter S subsidiaries. If an S corporation has elected to treat its wholly owned subsidiary as a qualified subchapter S subsidiary for federal income tax purposes under paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code, such election shall be applicable for New York state tax purposes and

(1) the assets, liabilities, income, deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the subsidiary shall be deemed to be those of the parent corporation,

(2) transactions between the parent corporation and the subsidiary, including the payment of interest and dividends, shall not be taken into account, and

(3) general executive officers of the subsidiary shall be deemed to be general executive officers of the parent corporation.

(e) Validated federal elections. If [~~(1) an election under subsection (a) of this section was made for a taxable year or years of a corporation, which years occur with or within the period for which~~] the federal S election of [~~such~~] an eligible S corporation has been validated pursuant to the provisions of subsection (f) of section thirteen hundred sixty-two of the internal revenue code, [~~and~~

~~(2) the corporation, and each person who was a shareholder in the corporation at any time during such taxable year or years agrees to make such adjustments (consistent with the treatment of the corporation as a New York S corporation) as may be required by the commissioner with respect to such year or years,~~

~~(3) then~~] such corporation shall be treated as [~~a New York~~] an eligible S corporation subject to subsection (a) of this section during [~~such~~] the year or years for which such election has been validated.

[~~(g) Transitional rule. Any election made under this section (as in effect for taxable years beginning before January first, nineteen hundred eighty-three) shall be treated as an election made under subsection (a) of this section.~~

~~(h) Cross reference. For definitions relating to S corporations, see subdivision one-A of section two hundred eight of this chapter.~~

~~(i) Mandated New York S corporation election. (1) Notwithstanding the provisions in subsection (a) of this section, in the case of an eligible S corporation for which the election under subsection (a) of this section is not in effect for the current taxable year, the shareholders of an eligible S corporation are deemed to have made that election effective for the eligible S corporation's entire current taxable year, if the eligible S corporation's investment income for the current taxable year is more than fifty percent of its federal gross income for such year. In determining whether an eligible S corporation is deemed to have made that election, the income of a qualified subchapter S subsidiary owned directly or indirectly by the eligible S corporation shall be included with the income of the eligible S corporation.~~

~~(2) For the purposes of this subsection, the term "eligible S corporation" has the same definition as in subsection (a) of this section.~~

~~(3) For the purposes of this subsection, the term "investment income" means the sum of an eligible S corporation's gross income from interest, dividends, royalties, annuities, rents and gains derived from dealings in property, including the corporation's share of such items from a partnership, estate or trust, to the extent such items would be includable in federal gross income for the taxable year.~~

~~(4) Estimated tax payments. When making estimated tax payments required to be made under this chapter in the current tax year, the eligible S corporation and its shareholders may rely on the eligible S corporation's filing status for the prior year. If the eligible S corporation's filing status changes from the prior tax year the corporation or the shareholders, as the case may be, which made the payments shall be entitled to a refund of such estimated tax payments. No additions to tax with respect to any required declarations or payments of estimated tax imposed under this chapter shall be imposed on the corporation or shareholders, whichever is the taxpayer for the current taxable year, if the corporation or the shareholders file such declarations and make such estimated tax payments by January fifteenth of the following calendar year, regardless of whether the taxpayer's tax year is a calendar or a fiscal year.~~]

§ 20. Transition rules. Any prior net operating loss conversion subtraction and net operating loss carryforward that otherwise would have been allowed under subparagraphs (viii) and (ix), respectively, of paragraph (a) of subdivision 1 of section 210 of the tax law for the taxable years beginning on or after January 1, 2022 to any taxpayer that was a New York C corporation for a taxable year beginning on or after January 1, 2021 and before January 1, 2022, and that becomes a New York S corporation for a taxable year beginning on or after January 1, 2022

as a result of the amendments made by this act, shall be held in abeyance and be available to such taxpayer if its election to be a federal S corporation is terminated. Further, any credit carryforwards allowed to such a taxpayer under section 210-B of the tax law shall be held in abeyance and be available to such taxpayer if its election to be a federal S corporation is terminated. However, the taxpayer's years as a New York S corporation shall be counted for purposes of computing any time period applicable to the allowance of the prior net operating loss conversion subtraction or carryforward, the net operating loss deduction, or any credit carryforward.

§ 21. This act shall take effect immediately, provided, however, that section one shall apply to taxable years beginning on or after January 1, 2021 and sections two through twenty shall apply to taxable years beginning on or after January 1, 2022.

PART F

Section 1. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by section 5-a of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of film production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation made available to the program pursuant to

paragraph four of subdivision (e) of this section. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section thirty-one of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six.

§ 2. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 5-b of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~twenty-five~~] twenty-six provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen, twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~twenty-five~~] twenty-six and five million dollars of the annual allocation shall be made available for the television writers' and directors' fees and salaries credit pursuant to section twenty-four-b of this article in each year starting in two thousand twenty through two thousand [~~twenty-five~~] twenty-six. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of

the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

§ 3. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 2 of part SSS of chapter 59 of the laws of 2019, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~twenty-four~~] twenty-six provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen and twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~twenty-four~~] twenty-six. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

§ 4. Paragraph 6 of subdivision (a) of section 31 of the tax law, as amended by section 5-c of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(6) For the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) for services performed by those individuals in one of the counties specified in this paragraph in connection with the post production work on a qualified film with a minimum budget of five hundred thousand dollars at a qualified post production facility in one of the counties listed in this paragraph. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six of the annual allocation made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of post production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation for two thousand seventeen made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section twenty-four of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~twenty-five~~] twenty-six.

§ 5. Paragraph 3 of subdivision (b) of section 24 of the tax law, as separately amended by sections 3 and 4 of part M of chapter 59 of the laws of 2020, is amended to read as follow:

(3) "Qualified film" means a feature-length film, television film, relocated television production, television pilot or television series, regardless of the medium by means of which the film, pilot or series is created or conveyed. For the purposes of the credit provided by this section only, a "qualified film" [~~with the exception of a television pilot,~~] whose majority of principal photography shooting days in the

production of the qualified film are shot in Westchester, Rockland, Nassau, or Suffolk county or any of the five New York City boroughs shall have a minimum budget of one million dollars. A "qualified film", [~~with the exception of a television pilot,~~] whose majority of principal photography shooting days in the production of the qualified film are shot in any other county of the state than those listed in the preceding sentence shall have a minimum budget of two hundred fifty thousand dollars. "Qualified film" shall not include: (i) a documentary film, news or current affairs program, interview or talk program, "how-to" (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, daytime drama (i.e., daytime "soap opera"), commercials, music videos or "reality" program; (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit conduct); or (iii) other than a relocated television production, a television series commonly known as variety entertainment, variety sketch and variety talk, i.e., a program with components of improvisational or scripted content (monologues, sketches, interviews), either exclusively or in combination with other entertainment elements such as musical performances, dancing, cooking, crafts, pranks, stunts, and games and which may be further defined in regulations of the commissioner of economic development. However, a qualified film shall include a television series as described in subparagraph (iii) of this paragraph only if an application for such series has been deemed conditionally eligible for the tax credit under this section prior to April first, two thousand twenty, such series remains in continuous production for each season, and an annual application for each season of such series is continually submitted for such series after April first, two thousand twenty.

§ 6. This act shall take effect immediately; provided, however, that the amendments made by section five of this act shall apply to applications that are filed with the governor's office for motion picture and television development on or after April 1, 2021; provided, further, however that the amendments to paragraph 4 of subdivision (e) of section 24 of the tax law made by section two of this act shall take effect on the same date and in the same manner as section 5 of chapter 683 of the laws of 2019, as amended, takes effect.

PART G

Section 1. Paragraph 3 of subsection (v) of section 685 of the tax law, as amended by section 3 of part I of chapter 59 of the laws of 2018, is amended to read as follows:

(3) Failure to provide complete and correct employee withholding reconciliation information. In the case of a failure by an employer to provide complete and correct quarterly withholding information relating to individual employees on a quarterly combined withholding, wage reporting and unemployment insurance return covering each calendar quarter of a year, such employer shall, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, pay a penalty equal to the product of [~~fifty~~] **one hundred** dollars multiplied by the number of employees for whom such information is incomplete or incorrect; provided, however, that if the number of such employees cannot be

determined from the quarterly combined withholding, wage reporting and unemployment insurance return, the commissioner may utilize any information in the commissioner's possession in making such determination. The total amount of the penalty imposed pursuant to this paragraph on an employer for any such failure for each calendar quarter of a year shall not exceed [~~ten~~] fifty thousand dollars.

§ 2. This act shall take effect immediately and apply to returns filed on or after June 1, 2021.

PART H

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

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

CHAPTER 7-A OF THE CONSOLIDATED LAWS
CANNABIS LAW
ARTICLE 1
SHORT TITLE; POLICY OF STATE AND PURPOSE OF CHAPTER; DEFINITIONS

Section 1. Short title.
2. Policy of state and purpose of chapter.
3. Definitions.

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

§ 2. Policy of state and purpose of chapter. It is hereby declared as policy of the state of New York that it is necessary to properly regulate, restrict, and control the cultivation, processing, manufacture, wholesale, and retail production, distribution, transportation, advertising, marketing, and sale of cannabis, cannabis products, medical cannabis, and cannabinoid hemp within the state of New York, for the purposes of fostering and promoting temperance in their consumption, to properly protect the public health, safety, and welfare, to displace the illicit cannabis market, to provide safe and affordable access to medical cannabis for patients, and to promote social and economic equality. It is hereby declared that such policy will best be carried out by empowering the state office of cannabis management and its executive director, to determine whether public health, safety, convenience and advantage will be promoted by the issuance of registrations, licenses and/or permits granting the privilege to produce, distribute, transport, sell, or traffic in cannabis, medical cannabis, or cannabinoid hemp, to increase or decrease in the number thereof, scope of activities, and the location of premises registered, licensed, or permitted thereby, subject only to the right of judicial review hereinafter provided for. It is the purpose of this chapter to carry out that policy in the public interest. The restrictions, regulations, and provisions contained in this chapter are enacted by the legislature for the protection of the health, safety, and welfare of the people of the state.

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

1. "Applicant" means a person or for-profit entity or not-for-profit corporation and includes: board members, officers, managers, owners, partners, principal stakeholders, financiers, and members who submit an

application to become a registered organization, licensee or permittee, and may include any other individual or entity with a material or operational interest in the license or its operations as determined by its board in regulation.

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

3. "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.

4. "Concentrated cannabis" means: (a) the separated resin, whether crude or purified, obtained from a plant of the genus cannabis; or (b) a material, preparation, mixture, compound or other substance which contains more than three-tenths of one percent by weight or by volume 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 or which exceeds an amount 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 per serving or per product determined by the board in regulation.

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

6. "Adult-use cannabis processor" means a person licensed by the office who may purchase adult-use cannabis from adult-use cannabis cultivators or processors, and who may process adult-use cannabis, and adult-use cannabis products, package and label adult-use cannabis, and adult-use cannabis products for sale in adult-use cannabis retail outlets, and who may sell adult-use cannabis and cannabis-infused products at wholesale to licensed adult-use cannabis distributors or processors, in accordance with regulations determined by the board.

7. "Adult-use cannabis product" or "adult-use cannabis" means any approved adult-use cannabis, concentrated cannabis, or adult-use cannabis-infused or extracted products, or products which otherwise contain or are derived from adult-use cannabis, and which have been authorized for distribution to and for use by an adult-use cannabis consumer as determined by the executive director.

8. "Adult-use cannabis retail dispenser" means a person or entity licensed by the executive director who may purchase adult-use cannabis products, from adult-use cannabis cultivators, processors or distributors, and who may sell approved adult-use cannabis products, through a retail outlet, as determined by the executive director.

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

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

11. "Certified patient" means a patient who is a resident of New York state or receiving care and treatment in New York state as determined by

the executive director in regulation, and is certified under section thirty of this chapter.

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

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

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

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

16. "Designated caregiver" means an individual designated by a certified patient in a registry application. A certified patient may designate up to two designated caregivers or additional designated caregivers as may be approved by the office.

17. "Designated caregiver facility" means a general hospital or residential health care facility operating pursuant to article twenty-eight of the public health law; an adult care facility operating pursuant to title two of article seven of the social services law; a community mental health residence established pursuant to section 41.44 of the mental hygiene Law; a hospital operating pursuant to section 7.17 of the mental hygiene law; a mental hygiene facility operating pursuant to article thirty-one of the mental hygiene law; an inpatient or residential treatment program certified pursuant to article thirty-two of the mental hygiene law; a residential facility for the care and treatment of persons with developmental disabilities operating pursuant to article sixteen of the mental hygiene law; a residential treatment facility for children and youth operating pursuant to article thirty-one of the mental hygiene law; a private or public school; research institution with an internal review board; or any other facility as determined by the executive director; that registers with the office of cannabis management to assist one or more certified patients with the acquisition, possession, delivery, transportation or administration of medical cannabis.

18. "Felony" means any criminal offense classified as a felony under the laws of this state or any criminal offense committed in any other state, district, or territory of the United States and classified as a felony therein which if committed within this state, would constitute a felony in this state.

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

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

21. "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 of not more than three-tenths of one percent on a dry weight or per volume basis.

22. "Cannabinoid hemp product" 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 of delta-9 tetrahydrocannabinol or more than an amount of total THC per quantity of cannabinoid hemp product as determined by the board in regulation.

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

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

25. "Individual dose" means a single measure of adult-use cannabis, medical cannabis or cannabinoid hemp product, as determined by the executive director in regulation. Individual doses may be established through a measure of raw material, a measure of an individual cannabinoid or compound, a measure of total THC, or an equivalency thereof.

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

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

28. "Medical cannabis" means cannabis as defined in subdivision three of this section, intended and approved for a certified medical use, as determined by the executive director in consultation with the commissioner of health.

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

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

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

33. "Person" means individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

34. "Practitioner" means a practitioner who: (i) is authorized to prescribe controlled substances within the state, (ii) by training or experience is qualified to treat a serious condition as defined in subdivision forty-three of this section; and (iii) completes, at a minimum, a two-hour course as determined by the board in regulation; provided however, the executive director may revoke a practitioner's ability to certify patients for cause.

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

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

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

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

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

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

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

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

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

44. "Traffic in" includes to cultivate, process, manufacture, distribute or sell any cannabis, adult-use cannabis product or medical cannabis at wholesale or retail.

45. "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.

46. "THC" means Delta-9-tetrahydrocannabinol; Delta-8-tetrahydrocannabinol and the optical isomers of such substances.

47. "Total THC" means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by 0.877 plus the percentage by weight of THC.

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

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

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

ARTICLE 2
NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

Section 7. Establishment of an office of cannabis management.
8. Establishment of the cannabis control board.
9. Functions, powers and duties of the cannabis control board.
10. Executive director.
11. Functions, powers and duties of the office and executive director.
12. Rulemaking authority.
13. Deputies; employees.
14. Disposition of moneys received for license fees.
15. Violations of cannabis laws or regulations; penalties and injunctions.
16. Formal hearings; notice and procedure.

17. Ethics, transparency and accountability.
18. Public health and education campaign.
19. Traffic safety oral fluid or other roadside detection method pilot program.
20. Establish uniform policies and best practices.

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

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

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

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

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

5. In the event of a vacancy caused by the death, resignation, removal or disability of any board member, the vacancy shall be filled in the same manner as the original appointment; provided that in such instance

the governor may appoint a member of the board to serve as chairperson for the remainder of their term without consultation with the Senate and the Assembly.

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

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

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

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

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

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

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

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

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

7. when an administrative decision is appealed by an applicant, registered organization, licensee or permittee, issue a final determination of the office; and

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

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

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

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

2. To limit the number, scope, and/or availability of registrations, licenses and permits of each class to be issued within any political or geographic subdivision of the state, and in connection therewith to prohibit the acceptance of applications for such classes which have been so limited, as set out in regulation and approved by the board.

3. To revoke, cancel or suspend for cause any registration, license, or permit issued under this chapter and/or to impose a civil penalty for cause against any holder of a registration, license, or permit issued pursuant to this chapter or any person engaged in activities without a license or permit for which a license or permit is required by this chapter. Any civil penalty so imposed shall be in addition to and separate and apart from the terms and provisions of the bond required pursuant to section thirty-five of this chapter.

4. To fix by regulation the standards and requirements for the cultivation, processing, packaging, marketing, and sale of medical cannabis, adult-use cannabis and cannabinoid hemp, including but not limited to, the ability to regulate potency, excipients, and the types and forms of products which may be manufactured and/or processed, in order to ensure

the health and safety of the public and the use of proper ingredients and methods in the manufacture of all cannabis and cannabinoid hemp to be sold or consumed in the state and to ensure that products are not packaged, marketed, or otherwise trafficked in a way which targets minors or promotes increased use or cannabis use disorders, as set out in regulation and approved by the board.

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

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

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

8. To delegate the powers provided in this section to such other officers or employees or other state agencies as may be deemed appropriate by the executive director, provided however, that any duty delegated to the executive director by the board shall not be further delegated without approval by the board.

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

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

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

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

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

14. To issue guidance and industry advisories.

15. To recommend that the state 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.

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

2. The board shall promulgate any and all necessary rules and regulations governing the production, processing, transportation, distribution, marketing, advertising and sale of medical cannabis, adult-use cannabis and cannabinoid hemp, the registration of organizations authorized to traffic in medical cannabis, the licensing and/or permitting of adult-use cannabis cultivators, processors, cooperatives, distributors, and retail dispensaries, and the licensing of cannabinoid hemp processors and retailers, including but not limited to:

(a) establishing application, registration, reinstatement, and renewal fees;

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

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

(d) methods of producing, processing, and packaging adult-use cannabis, medical cannabis, and cannabinoid hemp; conditions of sanitation, standards of ingredients, quality, and identity of adult-use cannabis and medical cannabis products cultivated, processed, packaged, or sold by registered organizations and licensees, and standards for the devices used to consume adult-use cannabis, medical cannabis and cannabinoid hemp;

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

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

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

3. The board shall promulgate rules and regulations to:

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

(b) prevent the revenue from the sale of cannabis from going to criminal enterprises, gangs, and cartels;

(c) prevent the diversion and inversion of adult-use cannabis and medical cannabis from this state to other states and from other states into this state insofar as cannabis remains federally prohibited;

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

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

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

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

(h) prevent the possession and use of adult-use cannabis and medical cannabis on federal property insofar as cannabis remains federally prohibited;

(i) regulate and restrict the use of cannabis and prohibit the trafficking of dangerous cannabis products in order to reduce the rate of cannabis abuse, cannabis dependency, cannabis use disorders, and other adverse public health and safety consequences of cannabis use;

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

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

(l) notwithstanding any other section of state law, adopt rules and regulations based on federal guidance provided those rules and regulations are designed to comply with federal guidance and mitigate federal enforcement against the registrations, licenses, or permits issued under this chapter, or the cannabis industry as a whole. This may include regulations which permit the sharing of licensee, registrant, or permit-holder information with designated banking or financial institutions; and

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

4. The board, in consultation with the department of agriculture and markets and the department of environmental conservation, shall promulgate necessary rules and regulations governing the safe production of adult-use cannabis and medical cannabis, including but not limited to environmental and energy standards and restrictions on the use of pesticides.

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

§ 13. Deputies; employees. 1. 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. The executive director shall also appoint a deputy director for social and economic equity who shall oversee the social and economic equity plan. The executive director may appoint such other deputies as he or she deems necessary to fulfill the responsibilities of the office.

2. The executive director may appoint and remove from time to time, in accordance with law and any applicable rules of the state civil service commission, such additional employees, under such titles as the executive director may assign, as the executive director may deem necessary for the efficient administration of the office. They shall perform such

duties as the executive director shall assign to them. The compensation of such employees shall be within the amounts appropriated therefor.

3. Investigators employed by the office shall be deemed to be peace officers for the purpose 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 17. Ethics, transparency and accountability. Except as authorized by the board no member of the office or any officer, deputy, 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 registered, licensed or permitted under this chapter; nor shall they have any interest, direct or indirect, in any business wholly or substantially devoted to the cultivation, processing, distribution, sale, transportation, marketing, testing, or storage of adult-use cannabis, medical cannabis or cannabinoid hemp, 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 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, or receive any commission or profit whatsoever, direct or indirect, from any person applying for, receiving, managing or operating any license or permit provided for in this chapter, or hold any other elected or appointed public office in the state or in any political subdivision to which a registered organization, licensee, permittee or applicant would appear. Anyone who violates any of the provisions of this section shall be removed or shall divest him or herself of such direct or indirect interests.

§ 18. 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.

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

§ 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 establish working groups related to laboratory testing, products 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. The executive director may enter into any contracts, or memoranda of understanding necessary to effectuate this provision.

ARTICLE 3
MEDICAL CANNABIS

Section 30. Certification of patients.
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32. Registry identification cards.
33. Registration as a designated caregiver facility.
34. Registered organizations.
35. Registering of registered organizations.
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40. Registered organizations and adult-use cannabis.
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43. Protections for the medical use of cannabis.
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45. Suspend; terminate.
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§ 30. Certification of patients. 1. A patient certification may only be issued if:

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

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

(c) the patient is under the practitioner's continuing care for the serious 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 serious 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 serious condition and the patient is under the practitioner's care for the serious 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 executive director 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 any approved 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 himself or herself.

7. A registry identification card based on a certification shall expire one year after the date the certification is signed by the practitioner.

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

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

(a) the cannabis that may be possessed by a certified patient shall not exceed quantities determined by the board in regulation;

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

(c) the cannabis that may be possessed by designated caregiver facilities does not exceed the quantities determined by the board under paragraph (a) of this subdivision for each certified patient under the care or treatment of the facility;

(d) the form or forms of medical cannabis that may be possessed by the certified patient, designated caregiver or designated caregiver facility pursuant to a certification shall be in compliance with any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient in the certification and consistent with any guidance or limitation issued by the executive director or regulation issued by the board; and

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

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

2. To obtain, amend or renew a registry identification card, a certified patient or designated caregiver shall file a registry application with the office, unless otherwise exempted by the executive director. The registry application or renewal application shall include such information as prescribed by the office which shall include but not be limited to:

(a) in the case of a certified patient:

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

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

(iii) the date of the certification;

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

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

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

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

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

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

(b) in the case of a designated caregiver:

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

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

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

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

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

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

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

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

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

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

5. No person may be a designated caregiver for more than one certified patient at one time, unless approved by the office. The office may allow a designated caregiver to serve more than one patient in cases where additional designating patients are immediate family members, in the

immediate and continuous care of the caregiver, or satisfy other eligibility requirements determined by the board in regulation.

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

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

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

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

10. A registry identification card shall:

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

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

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

(d) contain a photograph of the individual to whom the registry identification card is being issued, which shall be obtained by the office in a manner specified by the executive director; provided, however, that if the office requires certified patients to submit photographs for this purpose, there shall be a reasonable accommodation of certified patients who are confined to their homes due to their medical conditions and may therefore have difficulty procuring photographs;

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

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

(g) contain any other requirements determined by the executive director.

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

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

13. The office shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual identifying information obtained by the office under this article shall be confidential and exempt from disclosure under article six of the public officers law. Notwithstanding this subdivision, the office may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this article.

14. The office shall verify to law enforcement personnel in an appropriate case whether a registry identification card is valid and any other information necessary to protect patients' rights to medical cannabis by confirming compliance with this article.

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

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

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

(b) operating certificate or license number where appropriate;

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

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

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

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

2. Prior to issuing or renewing a designated caregiver facility registration, the office may verify the information submitted by the applicant. The applicant shall provide, at the office's request, such information and documentation, including any consents or authorizations that may be necessary for the office to verify the information.

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

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

§ 34. Registered organizations. 1. A registered organization shall be a for-profit business entity or not-for-profit corporation organized for the purpose of acquiring, possessing, manufacturing, selling, delivering, transporting, distributing, or dispensing cannabis for certified medical use, in accordance with minimum operating and recordkeeping requirements determined by the board in regulation.

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

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

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

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

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

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

(b) When dispensing medical cannabis to a certified patient or designated caregiver, the registered organization: (i) shall not dispense an amount greater than an amount established by the board in regulation; and (ii) shall verify the information in subparagraph (i) of this paragraph by consulting the prescription monitoring program registry under this article.

(c) Medical cannabis dispensed to a certified patient or designated caregiver by a registered organization shall conform to any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient, and any medical cannabis product or form limitations or restrictions determined by the executive director.

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

(a) methods for administering medical cannabis in individual doses,

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

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

(d) other information as determined by the executive director.

7. Registered organizations shall not be managed by or employ anyone who has been convicted of any felony other than for the sale or possession of drugs, narcotics, or controlled substances, and provided that this subdivision only applies to (a) managers or employees who come into contact with or handle medical cannabis, and (b) a conviction less

than ten years, not counting time spent in incarceration, prior to being employed, for which the person has not received a certificate of relief from disabilities, a certificate of good conduct under article twenty-three of the correction law, or an executive pardon.

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

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

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

11. 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.

12. Medical cannabis shall be dispensed to a certified patient or designated caregiver in a sealed and properly labeled package as determined by the executive director. 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; (f) a warning that the medical cannabis must be kept in the original container in which it was dispensed; and (g) any other information required by the office.

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

14. The board is authorized to make rules and regulations regulating the packaging, labeling, form and method of administration or ingestion, branding and marketing of medical cannabis products to prohibit accidental or overconsumption.

§ 35. Registering of registered organizations. 1. Application for initial registration. (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 executive director may require, including but not limited to:

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

(ii) that the applicant:

(A) is of good moral character;

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

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

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

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

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

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

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

(B) whether such person or any such business has had a cannabis business application denied or withdrawn or been convicted of a felony or had a registration or license subject to administrative action, including but not limited to violations, penalties, or consent agreements, or had any registration or license suspended or revoked in any administrative or judicial proceeding; and

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

2. The applicant shall be under a continuing duty to obtain approval from the office prior to any material changes in ownership, management, or financial or managerial interest, or prior to substantive operational changes, and to disclose any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

3. (a) The executive director may grant a registration, approve one or more activities permitted under a registration, or grant a requested amendment to a registration under this section if they are satisfied that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) compliance by the applicant with the laws of any state or territory with respect to the cultivation, manufacture, distribution or sale of adult-use cannabis or medical cannabis.

(c) An applicant for renewal shall be under a continuing duty to report to the office any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application, and to obtain approval prior to any material change in ownership interest, management or operations.

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

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

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

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

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

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

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

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

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

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

8. The office shall begin issuing registrations for registered organizations as soon as practicable after the certifications required by this article are given.

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

§ 36. Intentionally omitted.

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

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

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

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

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

§ 39. 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 shall submit to the office a description of the research that is intended to be conducted as well as the amount of cannabis to be grown or purchased. The office shall review an applicant's research project and determine whether it meets the requirements of subdivision

one of this section. In addition, the office 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 office may revoke a cannabis research license for violations of this subdivision.

4. A cannabis research licensee may contract with the higher education institutions to perform research in conjunction with the university. All research projects, entered into under this section shall be approved by the office 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, or concentrated cannabis a licensee may have on its premises;

(f) licensee reporting requirements;

(g) conditions under which cannabis grown by licensed or registered 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 office.

6. A cannabis research license issued pursuant to this section shall be issued in the name of the applicant, specify the location at which the cannabis researcher intends to operate, which shall be within the state of New York unless otherwise permitted under federal law, and the holder thereof may not allow any other person to use the license.

7. The application and license fees for a cannabis research license shall be determined by the executive director on an annual basis and may be based on the size, scope and duration of the research proposed.

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

§ 40. Registered organizations and adult-use cannabis. 1. The board shall have the authority to hold a competitive bidding process, including, in its discretion the ability to set price by an auction, to determine the registered organization(s) authorized to be licensed to cultivate, process, distribute and/or sell adult-use cannabis and to collect the fees generated from such auction to administer the office's social and economic equity plan and other duties prescribed by this chapter, and notwithstanding the prohibitions in article four of this chapter the board may permit such bidders to continue to participate in adult-use cannabis as a vertically integrated entity if such competitive process permits.

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

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

§ 41. Intentionally omitted.

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

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

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

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

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

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

(b) The name, contact information, and other information relating to practitioners registered with the office under this article shall be public information and shall be maintained by the executive director on the office's website accessible to the public in searchable form. However, if a practitioner notifies the office 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 office's website, unless the practitioner cancels the request.

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

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

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

2. In reviewing the per dose price of each form of medical cannabis, the executive director may consider the fixed and variable costs of producing the form of cannabis and any other factor the executive director, in his or her discretion, deems relevant in reviewing the per dose price of each form of medical cannabis.

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

ARTICLE 4
ADULT-USE CANNABIS

Section 60. Licenses issued.
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73. Intentionally omitted.
74. Intentionally omitted.
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83. Adult-use cannabis advertising and marketing.
84. Minority, women-owned businesses and disadvantaged farmers; social and economic equity plan.
85. Regulations.

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

1. Adult-use cultivator license;
2. Adult-use processor license;
3. Adult-use cooperative license;
4. Adult-use distributor license;
5. Adult-use retail dispensary license; and
6. Any other type of license as prescribed by the executive director in regulation.

§ 61. Awarding of licenses. 1. The board shall issue a request for proposals for licenses authorized pursuant to this section, and may award as many licenses in such classes as the board sets out in such request.

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 award shall not be denied for 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, or a conviction for a violation of article two hundred twenty-one of the penal law after the effective date of this chapter.

§ 62. Information to be requested in response to the request for proposals. 1. The office shall have the authority to prescribe the manner and form in which a response must be submitted to the office. Such information may include, but is not limited to: information about the applicant's identity, including racial and ethnic diversity; ownership and investment information, including the corporate structure; evidence of good moral character, including the submission of fingerprints by the applicant to the division of criminal justice services; information about the premises to be licensed; financial statements; and any other information prescribed in regulation.

2. All responses shall be signed by the applicant (if an individual), by a managing partner (if a limited liability corporation), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such response shall verify it or affirm it as true under the penalties of perjury.

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

4. If there be any proposed change, after the filing of the response or the award of a license, in any of the facts required to be set forth in such application, a supplemental statement requesting approval of such change, cost and source of money involved in the change, duly verified, shall be submitted to the office at least thirty days prior to such proposed change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

5. In giving any notice, or taking any action in reference to a registered organization or licensee of a licensed premises, the office may rely upon the information furnished in such response and in any supplemental statement or request connected therewith, and such information

may be presumed to be correct, and shall be binding upon a registered organization, licensee or licensed premises as if correct. All information required to be furnished in such response, requests or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke or suspend any license, or impose a fine and in the office's determination to approve or deny the license.

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

7. The office may, in its discretion, wholly prohibit and/or prescribe specific criteria under which it will consider and allow limited transfers or changes of ownership, interest, or control during the registration or license application period and/or up to two years after an approved applicant commences licensed activities.

§ 63. Fees. 1. The office shall have the authority to charge proposers under this article a non-refundable application fee and/or to auction licenses to bidders determined by the office to be qualified for such licensure based on the selection criteria in section sixty-four of this article. Such fee may be based on the type of licensure sought, cultivation and/or production volume, sequence or priority of issuance, or any other factors deemed necessary, reasonable and appropriate by the office to achieve the policy and purpose of this chapter.

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

3. The office shall have the authority to waive or reduce fees pursuant to this section for social and economic equity applicants.

§ 64. Approval and selection criteria. 1. The board shall develop regulations for use by the office in determining whether or not a proposer shall be awarded a license and subsequently granted the privilege of holding an adult-use cannabis license. The criteria for such approval or subsequent issuance shall be based on, but not limited to, the following criteria:

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

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

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

(d) where appropriate and applicable, the proposer possesses or has the right to use, or opportunity to acquire, sufficient land, buildings, and equipment to properly carry on the activity described in the application;

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

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

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

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

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

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

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

(f) the proposer and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses, registrations, permits, or the scope of activity allowed by this chapter, or any regulations promulgated hereunder;

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

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

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

(j) the proposer satisfies any other conditions as determined by the executive director.

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

§ 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.

2. No person shall sell, or give away or cause or permit or procure to be sold, or given away any cannabis to any person, actually or apparently, under the age of twenty-one years, or any visibly intoxicated person.

3. No licensee, registrant or permittee shall knowingly sell, or give away or cause or permit or procure to be sold, or given away to a lawful cannabis consumer any amount of cannabis which would cause the lawful cannabis consumer to be in violation of the possession limits established by this chapter, or their equivalent as determined by the executive director.

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

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

§ 66. License renewal. 1. Each license, issued pursuant to this article, may be approved for renewal upon application therefor by the licensee and the payment of the fee for such license as prescribed by this article. In the case of applications for renewals, the office may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original

license, but in any event the submission of photographs of the licensed premises may be dispensed with, provided the applicant for such renewal shall file a statement with the office to the effect that there has been no alteration of such premises since the original license was issued. The office may make such rules as it deems necessary, not inconsistent with this chapter, regarding applications for renewals of licenses and permits and the time for making the same.

2. The office shall create a social responsibility framework agreement and make the adherence to and fulfillment of such agreement a conditional requirement of license renewal.

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

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

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

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

(a) the name and address of the licensee;

(b) the activities permitted by the license;

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

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

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

2. Upon application to the office, a response to a request for proposals or license may be amended to allow the applicant or licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the applicant or licensee, upon approval by the executive director. The fee for such amendment shall be determined by the executive director.

3. A license shall become void by a change in ownership, management, interest, substantial corporate change, location, or material changes in operations without prior written approval of the executive director. The executive director may specify the process for amendment requests and allowing for certain types of changes in ownership without the need for prior written approval.

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

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

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

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

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

3. A person holding an adult-use cultivator's license may apply for, and obtain, not more than one processor's license and one distributor's license.

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

5. No person may have a direct or indirect financial or controlling interest in more than one adult-use cultivator license issued pursuant to this chapter, provided that one adult-use cultivator license may authorize adult-use cultivation in more than one location pursuant to criteria established by the board in regulation.

6. The executive director shall have the authority to issue microbusiness licenses, allowing microbusiness licensees to cultivate, process, distribute and retail adult-use cannabis direct to licensed cannabis retailers and consumers, under a single license. The board may establish through regulation microbusiness license eligibility criteria and production limits of total cannabis cultivated, processed and/or distributed annually for microbusiness licenses.

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

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

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

4. No cannabis processor licensee may hold more than one cannabis processor license, provided a single license may authorize processor activities at multiple locations.

5. No adult-use cannabis processor shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, or through parent organizations or affiliate entities, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

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

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

(a) be comprised of residents of the state of New York as a limited liability company or limited liability partnership under the laws of the state, or an appropriate business structure as determined by the 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) operate according to the seven cooperative principles published by the International Cooperative Alliance in nineteen hundred ninety-five.

3. No person shall be a member of more than one adult-use cooperative licensed pursuant to this section.

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

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

6. The board shall promulgate regulations governing cooperative licenses, including, but not limited to, the establishment of canopy limits and other restrictions on the size and scope of cooperative licensees.

§ 71. Adult-use distributor license. 1. A distributor's license shall authorize the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, microbusiness cultivator, adult-use cooperative, or registered organization authorized to sell adult-use cannabis, or any other person licensed, registered or permitted by the office to sell or transfer cannabis to or within the state, to duly licensed retail dispensaries.

2. No distributor shall have a direct or indirect economic interest in any microbusiness or adult-use retail dispensary licensed pursuant to this article, or in any registered organization registered pursuant to article three of this chapter. This restriction shall not prohibit a registered organization authorized pursuant to section forty of this chapter, from being granted licensure by the office to distribute adult-use cannabis products cultivated and processed by the registered organization to the registered organization's own licensed adult-use retail dispensaries.

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

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

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

2. No person may have a direct or indirect financial or controlling interest in more than three retail dispensary licenses issued pursuant to this chapter. This restriction shall not prohibit a registered organization, authorized pursuant to section forty of this chapter, from being granted licensure by the office to sell adult-use cannabis at locations previously registered by the department of health; subject to any conditions, limitations or restrictions established by the office.

3. No person holding a retail dispensary license may also hold or have any interest in an adult-use cultivation, processor, microbusiness, cooperative or distributor license pursuant to this article.

4. No retail license shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, management agreement or other agreement giving the applicant control over the premises, in writing, for a term not less than the license period.

5. No cannabis retail licensee shall locate a storefront within five hundred feet of a building occupied exclusively as a school.

§ 73. Intentionally omitted.

§ 74. Intentionally omitted.

§ 75. Record keeping and tracking. 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, or distributing by the licensee.

§ 76. Inspections and ongoing requirements. All licensed or permitted premises, regardless of the type of premises, and 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 office, by any peace officer acting pursuant to his or her special duties, or by a police officer. The office 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 office. 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 building codes, fire, health, safety, and governmental regulations, including at the municipal, county, and state level and include any inspector or official of relevant jurisdiction.

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

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

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

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

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

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

3. The board shall have the authority to create rules and regulations in regard to this section.

§ 78. Packaging, labeling, form and administration of adult-use cannabis products. 1. The board is hereby authorized to promulgate rules and regulations governing the packaging, labeling, form and method of administration or ingestion, branding and marketing of cannabis products, sold or possessed for sale in New York state.

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

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

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

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

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

4. Such rules and regulations shall determine serving sizes for cannabis products, active cannabis concentration per serving size, and number of servings per container. Such regulations may also require a nutritional fact panel that incorporates data regarding serving sizes and potency thereof.

5. Such rules and regulations shall establish approved product types and forms and establish an application and review process to determine the suitability of new product types and forms, taking into consideration the consumer and public health and safety implications of different product varieties, manufacturing processes, product types and forms, the means and methods of administration associated with specific product types, and any other criteria identified by the office for consideration to protect public health and safety.

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

7. The packaging, sale, labeling, marketing, branding, advertising or possession by any licensee of any cannabis product not labeled or

offered in conformity with rules and regulations promulgated in accordance with this section shall be grounds for the imposition of a fine, and/or the suspension, revocation or cancellation of a license. Fines may be imposed on a per violation, per day basis.

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

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

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

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

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

6. The office shall have the authority to require any licensee under this article to submit cannabis or cannabis products to one or more independent laboratories for testing and the board may promulgate regulations related to all aspects of third-party testing and quality assurance including but not limited to:

(a) minimum testing and sampling requirements;

(b) testing and sampling methodologies;

(c) testing reporting requirements;

(d) retesting; and

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

§ 80. Provisions governing the cultivation and processing of adult-use cannabis. 1. Cultivation of cannabis shall comply with regulations promulgated by the board governing minimum requirements.

2. No cultivator or processor of adult-use cannabis shall sell, or agree to sell or deliver in the state any cannabis products, as the case may be, except in sealed containers containing quantities in accordance with size standards pursuant to regulations adopted by the office. Such containers shall have affixed thereto such labels or other means of tracking and identification as may be required by the rules of the executive director.

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

4. The board, in conjunction with the department of environmental conservation, shall promulgate all necessary rules and regulations, as well as a process for approval, governing the safe production of cannabis including, but not limited to, environmental and energy standards and restrictions on the use of pesticides.

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

6. No cultivator or processor of adult-use cannabis, including an adult-use cannabis cooperative or microbusiness, may offer any incentive, payment or other benefit to a licensed cannabis retail dispensary in return for carrying the cultivator, processor, cooperative or microbusiness's 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 defined and modified by the board in regulation, which shall to the extent practicable and possible, align with neighboring state requirements.

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

9. The use or integration of wine, beer, liquor or nicotine or any other substance identified in regulation in cannabis products is prohibited.

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

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

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

3. Each distributor shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such distributor, which shall show the amount of cannabis products purchased by such distributor and the total THC content of purchased cannabis products as reflected on the product labels, together with the names, license numbers and places of business of the persons from whom the same was purchased and the amount involved in such purchases, as well as the amount of cannabis products sold by such distributor together and the total THC content of cannabis products sold as reflected on the final product labels, with the names, addresses, and license numbers of such purchasers and any other information required in regulation. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number and any other information required in regulation. Such distributor shall deliver to the purchaser a true duplicate invoice

stating the name and address of the purchaser, the quantity of cannabis products, the total THC content of purchased cannabis products as reflected on the product labels, description by brands and the price of such cannabis products, and a true, accurate and complete statement of the terms and conditions on which such sale is made. Such books, records and invoices shall be kept for a period of six years and shall be available for inspection by any authorized representative of the office.

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

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

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

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

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

2. No cannabis retail licensee shall sell more than one ounce of adult-use cannabis, or its equivalent amount as determined in regulation, per cannabis consumer per day.

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

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

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

6. All premises licensed under this section shall be subject to reasonable inspection by any peace officer described in subdivision four of section 2.10 of the criminal procedure law acting pursuant to his or her special duties, or police officer or any duly authorized representative of the office.

7. No cannabis retail licensee shall be interested, directly or indirectly, in any cultivator, processor or distributor licensed pursuant to

this article, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means.

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

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

10. No person licensed to sell cannabis products at retail, shall allow or permit any gambling, or offer any gambling on the licensed premises, or allow or permit illicit drug activity on the licensed premises. The use of the licensed premises or any part thereof for the sale of lottery tickets, when duly authorized and lawfully conducted thereon, shall not constitute gambling within the meaning of this subdivision.

11. All adult-use dispensing facilities shall make educational materials and resources available to cannabis consumers at the point of sale, as prescribed by the office, encouraging such cannabis consumers to seek the help of a state licensed facility or program for the treatment of cannabis use disorder.

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

§ 83. Adult-use cannabis advertising and marketing. 1. The board is hereby authorized to promulgate rules and regulations governing, restricting, and prohibiting various forms and content of the advertising and marketing of licensed adult-use cannabis cultivators, processors, cooperatives, distributors, retailers, and any cannabis products or services.

2. The office shall promulgate regulations for appropriate content, warnings, and means of advertising and marketing, including but not limited to prohibiting advertising that:

(a) is false, deceptive, or misleading;

(b) promotes overconsumption;

(c) depicts consumption;

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

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

(f) is in public transit vehicles and stations;

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

(h) is on publicly owned or operated property;

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

(j) promotes or implements discounts, coupons, or other means of selling adult-use cannabis products below market value or whose discount would subvert local and state tax collections;

(k) the content and primary purpose of which is not to alert and educate lawful cannabis consumers about the availability of regulated

adult-use cannabis and displace the illicit market but to solely promote cannabis use; or

(l) fails to satisfy any other advertising or marketing rule or regulations promulgated by the office related to marketing or advertising.

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

(a) appeal to persons under twenty-one years of age and/or at-risk populations; or

(b) disseminate false or misleading information to customers.

4. The office shall promulgate regulations requiring that:

(a) all advertisements and marketing accurately and legibly identify the licensee responsible for its content and contain recognizable and legible warnings associated with cannabis use; and

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

5. The office shall establish procedures to review and enforce all advertising and marketing requirements.

§ 84. Minority, women-owned businesses and disadvantaged farmers; social and economic equity plan. 1. The office shall implement a social and economic equity plan that actively promotes racial, ethnic, and gender diversity in the adult-use cannabis industry and prioritizes applicants who qualify as a minority and women-owned business, social equity applicant, or disadvantaged farmer and which positively impacts areas that have been harmed through disproportionate enforcement of the war on drugs.

2. The office shall create a social and economic equity plan which promotes diversity in ownership and employment in the adult-use cannabis industry and the inclusion of:

(a) minority-owned businesses;

(b) women-owned businesses;

(c) social equity applicants as defined in subdivision four of this section;

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

(e) disadvantaged farmers, as defined in subdivision four of this section.

3. (a) The social and economic equity plan implemented by the office shall promote participation and hiring of qualified social and economic equity applicants. These applicants shall be deemed qualified by the office through criteria determined in this section and by regulation promulgated hereunder. Once qualified, a social and economic equity applicant shall be eligible to access all or some of this available social and economic equity plan programs based on their qualification criteria, which may include but not be limited to:

(i) priority in submission and review for adult-use cannabis licenses;

(ii) priority in specific classes or categories of adult-use cannabis licenses and licensed activities, geographic areas or license location;

(iii) reduced or deferred fees for adult-use cannabis applications and/or licenses;

(iv) access to low or zero interest small business loans for entry into the adult-use cannabis market;

(v) access to incubator programs pairing qualified and eligible social and economic equity applicants with support in the form of counseling services, education, small business development, and compliance assistance;

(vi) access to cannabis workforce development and hiring initiatives which incentivize hiring of qualified social and economic equity staff members; and

(vii) any other available program or initiative developed under the office's social and economic equity plan.

(b) The executive director shall have the ability to alter or amend the social and economic equity plan, and its programs, to meet the needs of qualified social and economic equity applicants and areas as the industry grows and evolves.

(c) Under the social and economic equity plan, the board shall also have the authority to create and distribute local social and economic equity impact grants to community-based organizations which are located or operate in areas of disproportionate enforcement from the war on drugs. The application for, and administration of social and economic equity impact grants shall be determined by the board through regulations, provided sufficient funds are available.

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

(a) A minority-owned business, minority group member, and women-owned business shall have the same meaning as defined in section three hundred ten of the executive law.

(b) 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.

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

(i) farms in a county that has greater than ten percent rate of poverty according to the latest U.S. census bureau's american communities survey;

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

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

(d) "Social equity applicants" shall mean an applicant for licensure or employment that:

(i) is or has been a member of a community group or resident of an area that has been disproportionately impacted by the enforcement of cannabis prohibition, as determined by the board in regulation;

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

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

5. Licenses issued to minority and women-owned businesses or under the social and economic equity plan shall not be transferable for a period of two years except to qualified minority and women-owned businesses or

social and economic equity applicants and only upon prior written approval of the executive director.

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

ARTICLE 5
CANNABINOID HEMP AND HEMP EXTRACT

Section 90. Definitions.
91. Rulemaking authority.
92. Cannabinoid hemp processor license.
93. Cannabinoid hemp retailer license.
94. Cannabinoid license applications.
95. Information to be requested in applications for licenses.
96. Fees.
97. Selection criteria.
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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 product" 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 or a final total THC concentration which exceeds an amount determined by the board in regulation.

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 one percent on a dry weight basis. It shall not include "medical cannabis" as defined in subdivision twenty-eight of 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 total THC 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 office to process, extract, pack or manufacture cannabinoid hemp or hemp extract into products, whether in intermediate or final form, used for human consumption.

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

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

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

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

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

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

4. Any reporting requirements;

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

6. Procedures for how cannabinoid hemp, hemp extract or ingredients, additives, or products derived therefrom can be deemed as acceptable for sale in the state;

7. Provisions governing the modes and forms of administration, including inhalation;

8. Procedures for determining whether cannabinoid hemp, hemp extract or ingredients, additives, or products derived therefrom produced outside the state or within the state meet the standards and requirements of this article and can therefore be sold within the state;

9. Procedures for the granting, cancellation, revocation or suspension of licenses, consistent with the state administrative procedures act;

10. Restrictions governing the advertising and marketing of cannabinoid hemp, hemp extract and products derived therefrom; and

11. Any other regulations necessary to implement this article.

§ 92. Cannabinoid hemp processor license. 1. Persons processing cannabinoid hemp or hemp extract used for human consumption, whether in

intermediate or final form, shall be required to obtain a cannabinoid hemp processor license from the office.

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

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

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

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

6. Any person holding an active research partnership agreement with the department of agriculture and markets, authorizing that person to process cannabinoid hemp, shall be awarded licensure under this section, provided that the research partner is actively performing research pursuant to such agreement and is able to demonstrate compliance with this article, as determined by the office, after notice and an opportunity to be heard.

§ 93. Cannabinoid hemp retailer license. 1. Retailers selling cannabinoid hemp, in final form to consumers within the state, shall be required to obtain a cannabinoid hemp retailer license from the office.

2. The executive director shall have the authority to set reasonable fees for such license, to establish the period during which such license is authorized, which shall be one year or more. The board shall make rules and regulations necessary to implement this section.

§ 94. Cannabinoid license applications. 1. Persons shall apply for a license under this article by submitting an application upon a form supplied by the office, providing all the relevant requested information, verified by the applicant or an authorized representative of the applicant.

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

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

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

2. The executive director shall prescribe what relevant information shall be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity; ownership and investment information, including the corporate structure; evidence of good moral character; financial statements; information about the premises to be licensed; information

about the activities to be licensed; and any other relevant information prescribed by the executive director.

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

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

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

§ 96. Fees. The office may charge licensees a reasonable license fee. Such fee may be based on the activities permitted by the license, the amount of cannabinoid hemp or hemp extract to be processed or extracted by the licensee, the gross annual receipts of the licensee for the previous license period, or any other factors reasonably deemed appropriate by the office.

§ 97. Selection criteria. 1. The applicant, if an individual or individuals, shall furnish evidence of the individual's good moral character, and if an entity, the applicant shall furnish evidence of the good moral character of the individuals who have or will have substantial responsibility for the licensed or authorized activity and those in control of the entity, including principals, officers, or others with such control.

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

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

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

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

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

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

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

4. The office may only issue a renewal license upon receipt of the specified renewal application and renewal fee from a licensee if, in addition to the selection criteria set out in this article, the licensee's license is not under suspension and has not been revoked.

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

1. The name and address of the licensee;
2. The activities permitted by the license;
3. The land, buildings and facilities that may be used for the licensed activities of the licensee;
4. A unique license number issued by the office to the licensee; and
5. Such other information as the office shall deem necessary to assure compliance with this chapter.

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

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

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

§ 101. Granting, suspending or revoking licenses. After due notice and an opportunity to be heard, which process shall be established by rules and regulations, the office may decline to grant a new license, impose conditions or limits with respect to the grant of a license, modify an existing license or decline to renew a license, and may suspend or revoke a license already granted after due notice and an opportunity to be heard, as established by rules and regulations, whenever the executive director finds that:

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

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

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

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

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

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

§ 103. Packaging and labeling of cannabinoid hemp and hemp extract. 1. Cannabinoid hemp processors shall be required to provide appropriate label warning to consumers, and restricted from making unapproved label claims, as determined by the office, concerning the potential impact on or benefit to human health resulting from the use of cannabinoid hemp, hemp extract and products derived therefrom for human consumption, which labels shall be affixed to those products when sold, pursuant to rules and regulations that the board may adopt.

2. The board may, by rules and regulations, require processors to establish a code, including, but not limited to QR code, for labels and

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

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

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

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

3. All cannabinoid hemp, hemp extract and products derived therefrom used for human consumption shall be extracted and processed in accordance with good manufacturing processes for the product category pursuant to Part 117 or Part 111 of title 21 of the code of federal regulations, as may be defined, modified and decided upon by the office, provided that such rules shall be in conformity to the extent practicable with neighboring states.

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

§ 105. Laboratory testing. Every cannabinoid hemp processor shall contract with an independent commercial laboratory to test the hemp extract and products produced by the licensed processor. The executive director, in consultation with the commissioner of the department of health, shall establish the necessary qualifications or certifications required for such laboratories used by licensees. The board is authorized to issue rules and regulations consistent with this article establishing the testing required, the reporting of testing results and the form for reporting such laboratory testing results. The office has authority to require licensees to submit any cannabinoid hemp, hemp extract or product derived therefrom, processed or offered for sale within the state, for testing. This section shall not obligate the office, in any way, to perform any testing on hemp, cannabinoid hemp, hemp extract or product derived therefrom. The office shall be author-

ized to establish consortia or cooperative agreements with neighboring states to effectuate this section.

§ 106. New York hemp product. The office may establish and adopt official grades and standards for cannabinoid hemp, hemp extract and products derived therefrom, as he or she 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 executive director, in consultation with the commissioner of the department of agriculture and markets and the commissioner of health, 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, regional, 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 office 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 executive director may set reasonable fees for such permits and to establish the periods during which such permits are valid. The board shall make rules and regulations to implement this section.

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

ARTICLE 6
GENERAL PROVISIONS

Section 125. General prohibitions and restrictions.
126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis.
127. Protections for the use of cannabis; unlawful discriminations prohibited.
128. Registrations and licenses.
129. Laboratory testing permit.

130. Special use permits.
132. Municipal control and preemption.
133. Office to be necessary party to certain proceedings.
134. Penalties for violation of this chapter.
135. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation.
136. Lawful actions pursuant to this chapter.
137. Review by courts.
138. Illicit cannabis.
139. Injunction for unlawful manufacturing, sale, distribution, or consumption of cannabis.
140. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products.
141. Access to criminal history information through the division of criminal justice services.

§ 125. General prohibitions and restrictions. 1. No person shall cultivate, process, or distribute for sale or sell at wholesale or retail any cannabis, adult-use cannabis product, medical cannabis or cannabinoid hemp within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter.

2. No registered organization, licensee, or permittee shall sell, or agree to sell or deliver in this state any cannabis or cannabinoid hemp for the purposes of resale to any person who is not duly registered, licensed or permitted pursuant to this chapter to sell such product, at wholesale or retail, as the case may be, at the time of such agreement and sale.

3. No registered organization, licensee, or permittee shall employ, or permit to be employed, or shall allow to work, on any premises registered or licensed for retail sale hereunder, any person under the age of eighteen years in any capacity where the duties of such person require or permit such person to sell, dispense or handle cannabis.

4. No registered organization, licensee, or permittee shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any adult-use cannabis, cannabis product, medical cannabis or cannabinoid hemp on credit unless authorized by the executive director; except that a registered organization, licensee or permittee may accept third party credit cards for the sale of any cannabis, cannabis product, medical cannabis or cannabinoid hemp for which it is registered, licensed or permitted to dispense or sell to patients or cannabis consumers. This includes, but is not limited to, any consignment sale of any kind.

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

6. No registered organization, licensee, or permittee shall refuse, nor any person holding a registration, license, or permit refuse, nor any officer or director of any corporation or organization holding a registration, license, or permit refuse, to appear and/or testify under oath at an inquiry or hearing held by the office, with respect to any matter bearing upon the registration, license, or permit, the conduct of any people at the licensed premises, or bearing upon the character or fitness of such registrant, licensee, or permittee to continue to hold any registration, license, or permit. Nor shall any of the above offer false testimony under oath at such inquiry or hearing.

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

8. The proper conduct of registered, licensed, or permitted premises is essential to the public interest. Failure of a registered organization, licensee, or permittee to exercise adequate supervision over the registered, licensed, or permitted location poses a substantial risk not only to the objectives of this chapter but imperils the health, safety, and welfare of the people of this state. It shall be the obligation of each person registered, licensed, or permitted under this chapter to ensure that a high degree of supervision is exercised over any and all conduct at any registered, licensed, or permitted location at any and all times in order to safeguard against abuses of the privilege of being registered, licensed, or permitted, as well as other violations of law, statute, rule, or regulation. Persons registered, licensed, or permitted shall be held strictly accountable for any and all violations that occur upon any registered, licensed, or permitted premises, and for any and all violations committed by or permitted by any manager, agent or employee of such registered, licensed, or permitted person.

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

10. As it is a privilege under the law to be registered, licensed, or permitted to cultivate, process, distribute, traffic, or sell cannabis, the office may impose any such further restrictions upon any registrant, licensee, or permittee in particular instances as it deems necessary to further state policy and best serve the public interest. A violation or failure of any person registered, licensed, or permitted to comply with any condition, stipulation, or agreement, upon which any registration, license, or permit was issued or renewed by the office shall subject the registrant, licensee, or permittee to suspension, cancellation, revocation, and/or civil penalties as determined by the office.

11. No adult-use cannabis or medical cannabis may be imported to, or exported out of, New York state by a registered organization, licensee or person holding a license and/or permit pursuant to this chapter, until such time as it may become legal to do so under federal law and the board has promulgated regulations for the minimum requirements of such activities. Should it become legal to do so under federal law, the board shall have the authority to promulgate rules and regulations to protect the public and the policy of the state.

12. No registered organization, licensee or any of its agents, servants or employees shall peddle any cannabis product, medical cannabis or cannabinoid hemp from house to house by means of a truck or otherwise, where the sale is consummated and delivery made concurrently at the residence or place of business of a cannabis consumer. The office may establish regulations to enforce this subdivision. This subdivision shall not prohibit the delivery by a registered organization to certi-

fied patients or their designated caregivers, pursuant to article three of this chapter.

13. No licensee shall employ any canvasser or solicitor for the purpose of receiving an order from a certified patient, designated caregiver or cannabis consumer for any cannabis product, medical cannabis or cannabinoid hemp at the residence or place of business of such patient, caregiver or consumer, nor shall any licensee receive or accept any order, for the sale of any cannabis product, medical cannabis or cannabinoid hemp which shall be solicited at the residence or place of business of a patient, caregiver or consumer. This subdivision shall not prohibit the solicitation by a distributor of an order from any licensee at the licensed premises of such licensee.

14. No premises registered, licensed, or permitted by the office shall:

(a) permit or allow any gambling on the premises;

(b) permit or allow the premises to become disorderly;

(c) permit or allow the use, by any person, of any fireworks or other pyrotechnics on the premises; or

(d) permit or allow to appear as an entertainer, on any part of the premises registered, licensed, or permitted, any person under the age of eighteen years.

§ 126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis. 1. A registration, license, or permit issued to any person, pursuant to this chapter, for any registered, licensed, or permitted premises shall not be transferable to any other person, to any other location or premises, or to any other building or part of the building containing the licensed premises except in the discretion of the office. All privileges granted by any registration, license, or permit shall be available only to the person therein specified, and only for the premises licensed and no other except if authorized by the office. Provided, however, that the provisions of this section shall not be deemed to prohibit an application or request for approval for a registration or license as provided for in this chapter. A violation of this section shall subject the registration, license, or permit to revocation for cause.

2. Where a registration or license for premises has been revoked, the office in its discretion may refuse to accept an application from, or issue a registration, license, or permit under this chapter to, any individual, business, or entity connected to the revoked registration or license, or for such premises or for any part of the building containing such premises and connected therewith.

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

4. For purposes of this section, "arm's length transaction" shall mean a sale of a fee of all undivided interests in real property, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, or any part thereof, in the open market, between an informed and willing buyer and seller where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale

was made for the purpose of permitting the original licensee to avoid the effect of the revocation. The following sales shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of the revocation:

(a) a sale between relatives;

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

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

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

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

§ 127. Protections for the use of cannabis; unlawful discriminations prohibited. 1. No person, registered organization, licensee or permittee, or agent or contractor of a registered organization, licensee or permittee shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business or occupational or professional licensing board or office, solely for conduct permitted under this chapter. For the avoidance of doubt, the appellate division of the supreme court of the state of New York, and any disciplinary or character and fitness committees established by them are occupational and professional licensing boards within the meaning of this section. State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the federal controlled substances act, 21 U.S.C. et seq., solely for actions consistent with this chapter, except pursuant to an order of a court of competent jurisdiction.

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

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

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

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

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

4. An employer may implement policies prohibiting the use or possession of cannabis in accordance with section two hundred one-d of the labor law, provided such policies are in writing as part of an established workplace policy, uniformly applied to all employees, and the employer gives prior written notice of such policies to employees.

5. An employer may take disciplinary or adverse employment action against an employee, including termination of employment, for violating an established workplace policy adopted under subdivision four of this section, or if the results of a drug test administered in accordance with applicable state and local law demonstrate that the employee was impaired by or under the influence of cannabis while in the workplace or during the performance of work. For the purposes of this subdivision, a drug test that solely yields a positive result for cannabis metabolites shall not be construed as proof that an employee is under the influence of or impaired by cannabis unless the test yields a positive result for active tetrahydrocannabinol, delta-9-tetrahydrocannabinol, delta-8-tetrahydrocannabinol, or other active cannabinoid found in cannabis which causes impairment.

6. Nothing in this chapter permits any person to undertake any task under the influence of cannabis when doing so would constitute negligence or professional malpractice, jeopardize workplace safety, or to operate, navigate or be in actual physical control of any motor vehicle or other transport vehicle, aircraft, motorboat, machinery or equipment, or firearms under the influence of cannabis.

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

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

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

3. Licenses issued under this chapter shall contain, in addition to any further information or material to be prescribed by the rules of the office, the following information:

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

(b) kind of license and what kind of traffic in cannabis is thereby permitted;

(c) description by street and number, or otherwise, of licensed premises; and

(d) a statement in substance that such license shall not be deemed a property or vested right, and that it may be revoked at any time pursuant to law.

§ 129. Laboratory testing permit. 1. The executive director, in consultation with the commissioner of health, shall approve and permit one or more independent cannabis testing laboratories to test medical cannabis, adult-use cannabis and/or cannabinoid hemp.

2. To be permitted as an independent cannabis laboratory, a laboratory must apply to the office, on a form and in a manner prescribed by the office, which may include a permit fee and must demonstrate the following to the satisfaction of the executive director:

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

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

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

(d) the laboratory is physically located in New York state except as authorized in regulation; and

(e) the laboratory meets the requirements prescribed by this chapter and by regulation.

3. The owner of a laboratory testing permit under this section shall not hold a registration or license in any category of this chapter and shall not have any direct or indirect ownership interest in such registered organization or licensee. No board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization or licensee under this chapter, or such person's immediate family member, shall have an interest or voting rights in any laboratory testing permittee.

4. The office shall require that the permitted laboratory report testing results to the office in a manner, form and timeframe as determined by the executive director.

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

6. The executive director is authorized to enter into contracts or memoranda of understanding with any other state for the purposes of aligning laboratory testing requirements or establishing best practices in testing of cannabis.

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

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

2. Nursery permit - to produce clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis, and to sell such to licensed adult-use cultivators, registered organizations, and certified patients or their designated caregivers.

3. Solicitor's permit - to offer for sale or to solicit orders for the sale of any cannabis products and/or medical cannabis, as a representative of a registered organization or licensee under this chapter.

4. Broker's permit - to act as a broker in the purchase and sale of cannabis products and/or medical cannabis for a fee or commission, for or on behalf of a person authorized to cultivate, process, distribute or dispense cannabis products, medical cannabis or cannabinoid hemp within the state.

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

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

7. Temporary retail cannabis permit - to authorize the retail sale of adult-use cannabis to cannabis consumers, for a limited purpose or duration.

8. Caterer's permit - to authorize the service of cannabis products at a function, occasion or event in a hotel, restaurant, club, ballroom or other premises, which shall authorize within the hours fixed by the office, during which cannabis may lawfully be sold or served on the premises in which such function, occasion or event is held.

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

10. Miscellaneous permits - to purchase, receive or sell cannabis, cannabis products or medical cannabis, or receipts, certificates, contracts or other documents pertaining to cannabis, cannabis products, or medical cannabis, or to provide specialized or certified ancillary services to support the implementation and purpose of this chapter, in cases not expressly provided for by this chapter, when in the judgment of the office it would be appropriate and consistent with the policy and purpose of this chapter.

§ 132. Municipal control and preemption. 1. The provisions of article four of this chapter, authorizing the cultivation, processing, distribution and sale of adult-use cannabis to cannabis consumers, shall not be applicable to a county, or city having a population of one hundred thousand or more residents, which on or before December thirty-first, two thousand twenty-one, adopts a local law, ordinance or resolution by a majority vote of its governing body, to completely prohibit the establishment of one or more types of licenses contained in article four of this chapter, within the jurisdiction of such county or city. Any county law, ordinance or resolution passed by a county pursuant to this

subdivision shall not apply to a city that has a population of one hundred thousand or more residents and that is geographically located within the county unless such a prohibition is also adopted by a majority vote of the city's governing body. No law, ordinance or resolution may be adopted after January first, two thousand twenty-two, completely prohibiting the establishment of one or more types of licenses contained in article four of this chapter.

2. Except as provided for in subdivision one of this section, all counties, towns, cities and villages are hereby preempted from adopting any rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or cannabinoid hemp licenses. However, counties, cities, towns and villages, as applicable, may pass ordinances or regulations governing the hours of operation and location of licensed adult-use cannabis retail dispensaries, provided such ordinances or regulations do not make the operation of such licensed retail dispensaries unreasonably impracticable.

3. Local rules, ordinances, regulations or prohibitions enacted by a county, city, town, or village shall not require an adult-use cannabis applicant, licensee or permittee to enter into a community host agreement or pay any consideration to the municipality other than reasonable zoning and permitting fees.

4. Notwithstanding subdivision one of this section, adult-use cannabis, medical cannabis and cannabinoid hemp farming and farm operations, on land located within an agricultural district, shall be deemed an approved activity under the relevant county, city, town, or village land use or zoning ordinances, rules, or regulations, inclusive of all necessary ancillary farm operations as permitted by license pursuant to this chapter.

§ 133. Office to be necessary party to certain proceedings. The office shall be made a party to all actions and proceedings affecting in any manner the possession, ownership or transfer of a registration, license or permit to operate within a municipality; to all injunction proceedings; and to all other civil actions or proceedings which in any manner affect the enjoyment of the privileges or the operation of the restrictions provided for in this chapter.

§ 134. Penalties for violation of this chapter. 1. Any person who cultivates for sale or sells cannabis, cannabis products, medical cannabis or cannabinoid hemp without having an appropriate registration, license or permit therefor, or whose registration, license, or permit has been revoked, surrendered or cancelled, upon first conviction thereof shall be guilty of a misdemeanor, punishable by a fine not more than five thousand dollars per violation, per day, and upon second conviction thereof shall be guilty of a class A misdemeanor punishable by a fine not more than ten thousand dollars per violation, per day, or a sentence of imprisonment not to exceed thirty days and upon all subsequent convictions thereof shall be an E felony punishable by a fine not more than twenty-five thousand dollars per violation, per day or a sentence of imprisonment not to exceed one year.

2. Any registered organization or licensee, whose registration or license has been suspended pursuant to the provisions of this chapter, who sells cannabis, cannabis products, medical cannabis or cannabinoid hemp during the suspension period, upon conviction thereof shall be guilty of an A misdemeanor, punishable punished by a fine of not more than five thousand dollars per violation, per day.

3. Any person who shall make any false statement in the application for or renewal of a registration, license or a permit under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five thousand dollars.

4. Any violation by any person of any provision of this chapter for which no punishment or penalty is otherwise provided shall be a misdemeanor.

5. Nothing in this section shall prohibit the office from suspending, revoking, or denying a license, permit, registration, or application in addition to the penalties prescribed herein.

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

(a) the registered organization, licensee, permittee or his or her agent or employee has sold any illegal cannabis on the premises registered, licensed or permitted;

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

(c) for failing to follow testing requirements prescribed under this chapter or falsifying testing results;

(d) for knowingly distributing cannabis products to persons under twenty-one years of age;

(e) for diverting, inverting or trafficking in cannabis to or from an illegal and unlicensed, registered, or permitted source in violation of this chapter; or

(f) for any other violation established in regulation which poses an imminent and substantial threat to public health, public safety, or the integrity of the state's cannabis regulatory structure.

2. Notwithstanding the issuance of a registration, license or permit by way of renewal, the office 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 a license period which occurred prior to the issuance of such registration, license or permit.

3. (a) As used in this section, the term "for cause" shall also include the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the registered, licensed or permitted premises, or in the area in front of or adjacent to the registered or licensed premises, or in any parking lot provided by the registered organization or licensee for use by registered organization or licensee's patrons, which, in the judgment of the office, adversely affects or tends to affect the protection, health, welfare, safety, or repose of the inhabitants of the area in which the registered or licensed premises is located, or results in the licensed premises becoming a focal point for police attention, or is offensive to public decency.

(b) (i) As used in this section, the term "for cause" shall also include deliberately misleading the authority:

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

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

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

4. As used in this chapter, the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the premises may be presumed upon the third incident reported to the office by a law enforcement agency, or discovered by the office during the course of any investigation, of misconduct, diversion or disorder on or about the premises or related to the operation of the premises.

5. The denial, revocation, or suspension of any application, license, permit, or registration issued to or submitted by a person, business, or entity may also be grounds for the denial, suspension, or revocation of any and all other licenses, permits, or registrations applied for by, or issued to said person, business, or entity if the executive director determines it necessary to protect public health and safety or that the person, business, and/or entities involved no longer possess the good moral character required to participate in the cannabis industry.

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

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

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

9. Notwithstanding any other provision of this chapter, the office may: (a) revoke or refuse to issue any class or type of license, permit, or registration if it determines that failing to do so would conflict with any federal law or guidance pertaining to regulatory, enforcement and other systems that states, businesses, or other institutions may implement to mitigate the potential for federal intervention or enforcement. This provision shall not be construed to prohibit the overall implementation and administration of this chapter on account of the federal classification of marijuana or cannabis as a schedule I substance or any other federal prohibitions or restrictions; and

(b) the board may adopt rules and regulations based on federal guidance, provided those rules and regulations are designed to comply with federal guidance and mitigate federal enforcement against the registrations, licenses, or permits issued under this chapter, or the cannabis industry as a whole. This may include regulations which permit the sharing of licensee, registrant, or permit holder information with designated banking or financial institutions, provided these regulations are designed to aid cannabis industry participants' access to banking and financial services.

§ 136. Lawful actions pursuant to this chapter. 1. Contracts related to the operation of registered organizations, licenses and permits under

this chapter shall be lawful and shall not be deemed unenforceable on the basis that the actions permitted pursuant to the registration, license or permit are prohibited by federal law.

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

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

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

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

(d) The purchase, possession, or consumption of cannabis, medical cannabis and cannabinoid hemp, as permitted by this chapter and consistent with rules and regulations of the office, obtained from a validly registered, licensed or permitted retailer.

§ 137. Review by courts. 1. The following actions by the office shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules:

(a) refusal by the office to issue a registration, license, or a permit;

(b) the revocation, cancellation or suspension of a registration, license, or permit by the office;

(c) the failure or refusal by the office to render a decision upon any completed application for a license, registration or permit, or hearing submitted to or held by the office within sixty days after such submission of a completed application or hearing;

(d) the transfer by the office of a registration, license, or permit to any other entity or premises, or refusal by the office to approve such a transfer; and

(e) refusal to approve a corporate change in stockholders, stockholdings, officers or directors.

2. No stay shall be granted pending the determination of such matter except on notice to the office and only for a period of less than thirty days. In no instance shall a stay be granted where the office has issued a summary suspension of a registration, license, or permit for the protection of the public health, safety, and welfare.

§ 138. Illicit cannabis. 1. "Illicit cannabis" means and includes any cannabis product or medical cannabis owned, cultivated, distributed, bought, sold, packaged, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported, on which any tax required to have been paid under any applicable state law has not been paid; or any adult-use cannabis or medical cannabis product the form, packaging, or content of which is not permitted by the office, as applicable.

2. Any person who shall knowingly possess or have under his or her control any illicit cannabis is guilty of a misdemeanor.

3. Any person who shall knowingly barter or exchange with, or sell, give or offer to sell or to give another any illicit cannabis is guilty of a class A misdemeanor.

4. Any person who shall possess or have under his or her control or transport any illicit cannabis with intent to barter or exchange with, or to sell or give to another the same or any part thereof is guilty of a class A misdemeanor. Such intent is presumptively established by proof that the person knowingly possessed or had under his or her control one or more ounces, or an equivalent amount as determined by the board in regulation, of illicit cannabis. This presumption may be rebutted.

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

§ 139. Injunction for unlawful manufacturing, sale, distribution, or consumption of cannabis. 1. If any person shall engage or participate or be about to engage or participate in the cultivation, production, distribution, traffic, or sale of cannabis products, medical cannabis or cannabinoid hemp in this state without obtaining the appropriate registration, license, or permit therefor, or shall traffic in cannabis products, medical cannabis or cannabinoid hemp contrary to any provision of this chapter, or otherwise unlawfully, or shall traffic in illicit cannabis or, operating either a place for profit or pecuniary gain, or a not-for-profit basis, with a capacity for the assemblage of twenty or more persons, shall permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products without having the appropriate license or permit therefor, the office may present a verified petition or complaint to a justice of the supreme court at a special term of the supreme court of the judicial district in which such city, village or town is situated, for an order enjoining such person engaging or participating in such activity or from carrying on such business. Such petition or complaint shall state the facts upon which such application is based. Upon the presentation of the petition or complaint, the justice or court may grant an order temporarily restraining any person from continuing to engage in conduct as specified in the petition or complaint, and shall grant an order requiring such person to appear before such justice or court at or before a special term of the supreme court in such judicial district on the day specified therein, not more than ten days after the granting thereof, to show cause why such person should not be permanently enjoined from engaging or participating in such activity or from carrying on such business, or why such person should not be enjoined from carrying on such business contrary to the provisions of this chapter. A copy of such petition or complaint and order shall be served upon the person, in the manner directed by such order, not less than three days before the return day thereof. On the day specified in such order, the justice or court before whom the same is returnable shall hear the proofs of the parties and may, if deemed necessary or proper, take testimony in relation to the allegations of the petition or complaint. If the justice or court is satisfied that such person is about to engage or participate in the unlawful traffic in cannabis, medical cannabis or cannabinoid hemp or has unlawfully cultivated, processed, or sold cannabis products, medical cannabis or cannabinoid hemp without having obtained a registration or license or contra-

ry to the provisions of this chapter, or has trafficked in illicit cannabis, or, is operating or is about to operate such place for profit or pecuniary gain, with such capacity, and has permitted or is about to permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products without having such appropriate license, an order shall be granted enjoining such person from thereafter engaging or participating in or carrying on such activity or business, and allowing for the seizure of such illicit cannabis without limit. If, after the entry of such an order in the county clerk's office of the county in which the principal place of business of the corporation or partnership is located, or in which the individual so enjoined resides or conducts such business, and the service of a copy thereof upon such person, or such substituted service as the court may direct, such person, partnership or corporation shall, in violation of such order, cultivate, process, distribute or sell cannabis products, medical cannabis or cannabinoid hemp, or illicit cannabis, or permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products, such activity shall be deemed a contempt of court and be punishable in the manner provided by the judiciary law, and, in addition to any such punishment, the justice or court before whom or which the petition or complaint is heard, may, in his or its discretion, order the seizure and forfeiture of any cannabis products and any fixtures, equipment and supplies used in the operation or promotion of such illegal activity and such property shall be subject to forfeiture pursuant to law. Costs upon the application for such injunction may be awarded in favor of and against the parties thereto in such sums as in the discretion of the justice or court before whom or which the petition or complaint is heard may seem proper.

2. The owner, lessor and lessee of a building, erection or place where cannabis products, medical cannabis or cannabinoid hemp is unlawfully cultivated, processed, distributed, sold, consumed or permitted to be unlawfully cultivated, processed, distributed, sold or consumed may be made a respondent or defendant in the proceeding or action.

3. The gift or transfer of cannabis in conjunction with the transfer of any money, consideration or value, or another item or any other services in an effort to evade laws, licensing, permitting, and registration requirements governing the sale of cannabis shall be considered an unlawful activity under this chapter.

§ 140. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products. 1. The following are forbidden to traffic in cannabis:

(a) Except as provided in subdivision one-a of this section, a person who has been convicted of a felony, unless subsequent to such conviction such person shall have received an executive pardon therefor removing this disability, a certificate of good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction;

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

(c) A person who is not a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(d) A partnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted

for permanent residence in the United States, not less than twenty-one years of age, and has not been convicted of any felony, or if so convicted has received, subsequent to such conviction, an executive pardon therefor removing this disability a certificate of good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are not less than twenty-one years of age and none of its directors are less than eighteen years of age; and provided further that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than twenty-one years of age;

(e) A person who shall have had any registration or license issued under this chapter revoked for cause, until no less than two years from the date of such revocation;

(f) A person not registered or licensed under the provisions of this chapter, who has been convicted of a violation of this chapter, until no less than two years from the date of such conviction; or

(g) A corporation or partnership, if any officer and director or any partner, while not licensed under the provisions of this chapter, has been convicted of a violation of this chapter, or has had a registration or license issued under this chapter revoked for cause, until no less than two years from the date of such conviction or revocation.

1-a. Notwithstanding the provision of subdivision one of this section, a corporation holding a registration or license to traffic cannabis products or medical cannabis may, upon conviction of a felony be automatically forbidden to traffic in cannabis products or medical cannabis, and the application for a registered organization or license by such a corporation may be subject to denial, and the registration or license of such a corporation may be subject to revocation or suspension by the office pursuant, consistent with the provisions of article twenty-three-A of the correction law. For any felony conviction by a court other than a court of this state, the office may request the department of corrections and community supervision to investigate and review the facts and circumstances concerning such a conviction, and such department shall, if so requested, submit its findings to the office as to whether the corporation has conducted itself in a manner such that discretionary review by the office would not be inconsistent with the public interest. The department of corrections and community supervision may charge the registered organization, licensee or applicant a fee equivalent to the expenses of an appropriate investigation under this subdivision. For any conviction rendered by a court of this state, the office may request the corporation, if the corporation is

eligible for a certificate of relief from disabilities, to seek such a certificate from the court which rendered the conviction and to submit such a certificate as part of the office's discretionary review process.

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

3. No elective village officer shall be subject to the limitations set forth in subdivision two of this section unless such elective village officer shall be assigned duties directly relating to the operation or management of the police department or have direct authority over any applicable local licensing requirements or approvals.

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

§ 3. Intentionally omitted.

§ 4. Section 3302 of the public health law, as added by chapter 878 of the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 22, 23, 24, 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998, subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of subdivision 20, the opening paragraph of subdivision 22 and subdivision 29 as amended by chapter 163 of the laws of 1973, subdivision 21 as

amended by chapter 1 of the laws of 2020, subdivision 31 as amended by section 4 of part A of chapter 58 of the laws of 2004, subdivision 41 as added by section 6 of part A of chapter 447 of the laws of 2012, and subdivisions 42 and 43 as added by section 13 of part D of chapter 60 of the laws of 2014, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) opium poppy and poppy straw.

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

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

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

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

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

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

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

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

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

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

[~~32.~~] 30. "Sell" means to sell, exchange, give or dispose of to another, or offer or agree to do the same.

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

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

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

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

[~~37.~~] 35. "Electronic prescription" means a prescription issued with an electronic signature and transmitted by electronic means in accordance with regulations of the commissioner and the commissioner of education and consistent with federal requirements. A prescription generated on an electronic system that is printed out or transmitted via facsimile is not considered an electronic prescription and must be manually signed.

[~~38.~~] 36. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities. "Electronic" shall not include facsimile.

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

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

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

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

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

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

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

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

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

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

(13) [~~Marihuana.~~

~~(14)~~] Mescaline.

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

[~~(16)~~] **(15)** Peyote. Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts.

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

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

[~~(19)~~] **(18)** Psilocybin.

[~~(20)~~] **(19)** Psilocyn.

[~~(21)~~] **(20) Synthetic** Tetrahydrocannabinols. [~~Synthetic~~] **tetrahydrocannabinols not derived from the cannabis plant, or tetrahydrocannabinols manufactured or created from the cannabis plant but which were not produced by the cannabis plant during its cultivation or present at the time of harvest that are** equivalents of the substances contained in the plant, or in the resinous extractives of cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

[/\] **delta** 1 cis or trans tetrahydrocannabinol, and their optical isomers

[/\] **delta** 6 cis or trans tetrahydrocannabinol, and their optical isomers

[/\] **delta** 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

Tetrahydrocannabinol created or produced by decarboxylation of tetrahydrocannabinolic acid produced from the cannabis plant through cultivation or present at the time of harvest and/or any U.S. Food and Drug Administration approved product containing tetrahydrocannabinol shall not be considered a synthetic tetrahydrocannabinol.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 7. Section 3382 of the public health law, as added by chapter 878 of the laws of 1972, is amended to read as follows:

§ 3382. Growing of the plant known as Cannabis by unlicensed persons. A person who, without being licensed so to do under this article or articles three, four or five of the cannabis law, grows the plant of the genus Cannabis or knowingly allows it to grow on his land without destroying the same, shall be guilty of a class A misdemeanor.

§ 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~~] subdivision three of section three of the cannabis law and shall also include tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinol.

§ 9. Subdivisions 5, 6 and 9 of section 220.00 of the penal law, subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as amended by chapter 664 of the laws of 1985, are amended and a new subdivision 21 is added 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~~] cannabis as defined in subdivision six of this section, but including concentrated cannabis as defined in [~~paragraph (a) of subdivision four of section thirty-three hundred two of such law~~] subdivision twenty-one of this section.

6. [~~"Marihuana"~~] "Cannabis" means [~~"marihuana" or "concentrated cannabis" as those terms are defined in section thirty-three hundred two of the public health law~~] all parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, or its seeds. 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, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include all parts of the plant cannabis sativa l., whether growing or not, having no more than three-tenths of one percent tetrahydrocannabinol (THC). Cannabis does not include any drug product for which an application has been approved by the Federal Food and Drug Administration.

9. "Hallucinogen" means any controlled substance listed in schedule I(d) (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18), (19), (20) and (21).

21. "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.

§ 10. Subdivision 4 of section 220.06 of the penal law is REPEALED.

§ 11. Subdivision 10 of section 220.09 of the penal law is REPEALED.

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

3. concentrated cannabis as defined in [~~paragraph (a) of subdivision four of section thirty-three hundred two of the public health law~~] **subdivision twenty-one of section 220.00 of this article**; or

§ 13. Subdivision 4 of section 15.20 of the penal law, as added by chapter 75 of the laws of 1995, is amended to read as follows:

4. Notwithstanding the use of the term "knowingly" in any provision of this chapter defining an offense in which the aggregate weight of a controlled substance or [~~marihuana~~] **cannabis** is an element, knowledge by the defendant of the aggregate weight of such controlled substance or [~~marihuana~~] **cannabis** is not an element of any such offense and it is not, unless expressly so provided, a defense to a prosecution therefor that the defendant did not know the aggregate weight of the controlled substance or [~~marihuana~~] **cannabis**.

§ 14. Section 221.00 of the penal law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

§ 221.00 [~~Marihuana~~] **Cannabis**; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter. Any act that is lawful under [~~title five-A of article thirty-three of the public health~~] **articles three, four or five, of the cannabis** law is not a violation of this article.

§ 15. Section 221.00 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.00 [~~Marihuana~~] **Cannabis**; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter.

§ 16. Section 221.05 of the penal law, as amended by chapter 131 of the laws of 2019, is amended to read as follows:

§ 221.05 Unlawful possession of [~~marihuana~~] **cannabis** in the second degree.

A person is guilty of unlawful possession of [~~marihuana~~] **cannabis** in the second degree when he knowingly and unlawfully possesses [~~marihuana.~~]**:**

1. cannabis and is less than twenty-one years of age; or

2. cannabis in a public place, as defined in section 240.00 of this part, and such cannabis is burning.

Unlawful possession of [~~marihuana~~] **cannabis** in the second degree is a violation punishable only by a fine of not more than fifty dollars **when such possession is by a person less than twenty-one years of age and of an aggregate weight of less than one-half of one ounce of cannabis or less than two and one-half grams of concentrated cannabis or a fine of not more than one hundred dollars when such possession is by a person less than twenty-one years of age and of an aggregate weight more than**

one-half of one ounce of cannabis but not more than one ounce of cannabis, or more than two and one-half grams of concentrated cannabis but not more than five grams of concentrated cannabis. Unlawful possession of cannabis in the second degree is punishable by a fine of not more than one hundred twenty-five dollars when such possession is in a public place and such cannabis is burning. The term "burning" shall mean and include smoking and vaping as such terms are defined in section thirteen hundred ninety-nine-n of the public health law.

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

8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or [~~marihuana~~] cannabis as defined in section [~~thirty-three hundred two of this chapter~~] 220.00 of the penal law.

§ 17. Section 221.15 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.15 [~~Criminal~~] Unlawful possession of [~~marihuana~~] cannabis in the [~~fourth~~] first degree.

A person is guilty of [~~criminal~~] unlawful possession of [~~marihuana~~] cannabis in the [~~fourth~~] first degree when he or she knowingly and unlawfully possesses [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~two ounces~~] one ounce of cannabis or more than five grams of concentrated cannabis.

[~~Criminal~~] Unlawful possession of [~~marihuana~~] cannabis in the [~~fourth~~] first degree is a [~~class A misdemeanor~~] violation punishable by a fine of not more than one hundred twenty-five dollars. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law.

§ 18. Section 221.20 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.20 Criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second degree.

A person is guilty of criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second degree when he or she knowingly and unlawfully possesses [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~eight~~] two ounces of cannabis or more than ten grams of concentrated cannabis.

Criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second degree is a class [~~E felony~~] A misdemeanor punishable by a fine not more than one hundred twenty-five dollars per ounce possessed in excess of two ounces of cannabis or ten grams of concentrated cannabis. However, where the defendant has previously been convicted of an offense defined in this article or article two hundred twenty of this title, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars per ounce possessed in excess of two ounces, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars per ounce possessed in excess of two ounces or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such

offenses committed during such period. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law.

§ 19. Section 221.25 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.25 Criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** degree.

A person is guilty of criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** degree when he **or she** knowingly and unlawfully possesses [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~sixteen~~] **sixty-four** ounces **of cannabis or more than eighty grams of concentrated cannabis**.

Criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** degree is a class [~~D~~] **E** felony.

§ 20. Sections 221.10 and 221.30 of the penal law are REPEALED.

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

(c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist as defined in section 220.65 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, operating as a major trafficker as defined in section 220.77 of the penal law, [~~criminal possession of marihuana in the first degree as defined in section 221.30 of the penal law, criminal sale of marihuana in the first degree as defined in section 221.55 of~~

~~the penal law,~~] promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

§ 20-b. Paragraph (c) of subdivision 4-b and subdivisions 6 and 9 of section 1310 of the civil practice law and rules, paragraph (c) of subdivision 4-b as added by chapter 655 of the laws of 1990 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984, are amended to read as follows:

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a criminal defendant for a violation of section 221.30 of the penal law,~~] or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances [~~or where the conviction is for a violation of section 221.30 of the penal law, marijuana,~~] as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance [~~or where the conviction is for a violation of section 221.30 of the penal law, marijuana~~], that such possession was with the intent to sell it.

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

9. "Criminal defendant" means a person who has criminal liability for a crime defined in subdivisions five and six [~~hereof~~] **of this section**. For purposes of this article, a person has criminal liability when (a) he has been convicted of a post-conviction forfeiture crime, or (b) the claiming authority proves by clear and convincing evidence that such person has committed an act in violation of article two hundred twenty or section [~~221.30 or~~] 221.55 of the penal law.

§ 20-c. Paragraph (c) of subdivision 7 of section 480.00 of the penal law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34[~~,~~] **or** 220.39[~~, or 221.30~~] of this chapter, or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances [~~or where the conviction is for a violation of section 221.30 of this chapter, marijuana~~] as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance [~~or where the conviction is for a violation of section 221.30 of this chapter, marijuana~~], that such possession was with the intent to sell it.

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

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

§ 20-e. Subdivision 1 of section 170.56 of the criminal procedure law, as amended by chapter 360 of the laws of 1977, is amended to read as follows:

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

§ 20-f. Subparagraph (iii) of paragraph (k) of subdivision 3 of section 160.50 of the criminal procedure law, as amended by chapter 132 of the laws of 2019, is amended to read as follows:

(iii) the conviction is for an offense defined in section 221.05 [~~or~~], 221.10 **or 221.15** of the penal law.

§ 21. Section 221.35 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.35 Criminal sale of [~~marihuana~~] **cannabis** in the fifth degree.

A person is guilty of criminal sale of [~~marihuana~~] **cannabis** in the fifth degree when he **or she** knowingly and unlawfully sells, [~~without~~]

for consideration[~~, one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are~~] cannabis or cannabis concentrate of [~~an aggregate weight of two grams or less; or one cigarette containing marihuana~~] any weight.

Criminal sale of [~~marihuana~~] cannabis in the fifth degree is a [~~class B misdemeanor~~] violation punishable by a fine not more than the greater of two-hundred and fifty dollars or two times the value of the sale.

§ 22. Section 221.40 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.40 Criminal sale of [~~marihuana~~] cannabis in the fourth degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the fourth degree when he or she knowingly and unlawfully sells [~~marihuana except as provided in section 221.35 of this article~~] cannabis of an aggregate weight of more than one ounce or more than five grams of cannabis concentrate.

Criminal sale of [~~marihuana~~] cannabis in the fourth degree is a [~~class A~~] misdemeanor punishable by a fine of not more than the greater of five hundred dollars or two times the value of the sale or a maximum of three months imprisonment, or both.

§ 23. Section 221.45 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.45 Criminal sale of [~~marihuana~~] cannabis in the third degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the third degree when he or she knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams~~] or an aggregate weight of more than four ounces of cannabis or more than twenty grams of concentrated cannabis.

Criminal sale of [~~marihuana~~] cannabis in the third degree is a [~~class E felony~~] misdemeanor punishable by a fine of not more than the greater of one thousand dollars or two times the value of the sale or a maximum of one year imprisonment or both.

§ 24. Section 221.50 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.50 Criminal sale of [~~marihuana~~] cannabis in the second degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the second degree when he knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~four ounces, or knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana to a person less than eighteen years of age~~] sixteen ounces of cannabis or more than eighty grams of concentrated cannabis or any amount of cannabis or concentrated cannabis to any person under twenty-one years of age. In any prosecution for unlawful sale of cannabis or concentrated cannabis to someone under twenty-one years of age pursuant to this section, it is an affirmative defense that: (a) the defendant had reasonable cause to believe that the person under twenty-one years of age involved was twenty-one years old or more; and (b) such person under twenty-one years of age exhibited to the defendant a draft card, driver's license or identification card, birth certificate or other

official or apparently official document purporting to establish that such person was twenty-one years old or more.

Criminal sale of [~~marihuana~~] cannabis in the second degree is a class D felony.

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

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

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the first degree when he knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of~~] more than [~~sixteen~~] sixty-four ounces of cannabis or three hundred and twenty grams of cannabis concentrate.

Criminal sale of [~~marihuana~~] cannabis in the first degree is a class C felony.

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

§ 221.60 Licensing of cannabis production and distribution.

The provisions of this article and of article two hundred twenty of this title shall not apply to any person exempted from criminal penalties pursuant to the provisions of this chapter or possessing, manufacturing, transporting, distributing, selling or transferring cannabis or concentrated cannabis, or engaged in any other action that is in compliance with article three, four or five of the cannabis law.

§ 27. Intentionally omitted.

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

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

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

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

§ 114-a. Drug. The term "drug" when used in this chapter, means and includes any substance listed in section thirty-three hundred six of the public health law and any substance or combination of substances that impair, to any extent, physical or mental abilities.

§ 31. The article heading of article 20-B of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

EXCISE TAX ON MEDICAL [~~MARIHUANA~~] CANNABIS

§ 32. The paragraph heading and subparagraph (i) of paragraph (b) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, are amended to read as follows:

Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses. (i) A violation of subdivision two, three, or four [~~or four-a~~] of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. A violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article shall be a misde-

meanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment.

§ 33. Paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law is amended by adding a new subparagraph (i-a) to read as follows:

(i-a) A violation of subdivision four-a of section eleven hundred ninety-two of this article shall be a class E felony, and shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

§ 33-a. Subdivisions 1, 2 and 3 of section 1194 of the vehicle and traffic law, as added by chapter 47 of the laws of 1988, paragraph (a) of subdivision 2 as amended by chapter 196 of the laws of 1996, paragraphs (b) and (c) of subdivision 2 as amended by chapter 489 of the laws of 2017, clause (A) of subparagraph 1, subparagraphs 2 and 3 of paragraph (b), subparagraphs 1, 2 and 3 of paragraph (c) of subdivision 2 as amended by chapter 27 of the laws of 2018, subparagraphs 1 and 2 of paragraph (d) of subdivision 2 as amended by chapter 732 of the laws of 2006, and item (iii) of clause c of subparagraph 1 of paragraph (d) of subdivision 2 as amended by section 37 of part LL of chapter 56 of the laws of 2010, are amended to read as follows:

1. Arrest and field testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of subdivision one of section eleven hundred ninety-two of this article, if such violation is coupled with an accident or collision in which such person is involved, which in fact has been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person.

(b) Field testing. Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath test **and/or oral/bodily fluid test** to be administered by the police officer. If such test indicates that such operator has consumed alcohol **or drug or drugs**, the police officer may request such operator to submit to a chemical test **and/or an evaluation conducted by a drug recognition expert** in the manner set forth in subdivision two of this section.

2. Chemical tests **and drug recognition evaluations**. (a) When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to **an evaluation conducted by a certified drug recognition expert and/or** a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer:

(1) having reasonable grounds to believe such person to have been operating in violation of any subdivision of section eleven hundred ninety-two of this article and within two hours after such person has been placed under arrest for any such violation; or having reasonable grounds to believe such person to have been operating in violation of section eleven hundred ninety-two-a of this article and within two hours after the stop of such person for any such violation,

(2) within two hours after a breath test, as provided in paragraph (b) of subdivision one of this section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member;

(3) for the purposes of this paragraph, "reasonable grounds" to believe that a person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of such subdivision. Such circumstances may include any visible or behavioral indication of alcohol consumption by the operator, the existence of an open container containing or having contained an alcoholic beverage in or around the vehicle driven by the operator, or any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle after having consumed alcohol at the time of the incident; or

(4) notwithstanding any other provision of law to the contrary, no person under the age of twenty-one shall be arrested for an alleged violation of section eleven hundred ninety-two-a of this article. However, a person under the age of twenty-one for whom a chemical test **and/or an evaluation conducted by a certified drug recognition expert** is authorized pursuant to this paragraph may be temporarily detained by the police solely for the purpose of requesting or administering such chemical test **and/or an evaluation conducted by a certified drug recognition expert** whenever arrest without a warrant for a petty offense would be authorized in accordance with the provisions of section 140.10 of the criminal procedure law or paragraph (a) of subdivision one of this section.

(b) Report of refusal. (1) If: (A) such person having been placed under arrest; or (B) after a breath**, blood, urine, and/or oral/bodily fluid** test indicates the presence of alcohol **and/or drug or drugs** in the person's system; or (C) with regard to a person under the age of twenty-one, there are reasonable grounds to believe that such person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article; and having thereafter been requested to submit to such chemical test **and/or an evaluation or any portion thereof conducted by a certified drug recognition expert** and having been informed that the person's license or permit to drive and any non-resident operating privilege shall be immediately suspended and subsequently revoked, or, for operators under the age of twenty-one for whom there are reasonable grounds to believe that such operator has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, shall be revoked for refusal to submit to such chemical test or any portion thereof, **and/or an evaluation conducted by a certified drug recognition expert or any portion thereof,** whether or not the person is found guilty of the charge for which such person is arrested or detained, refuses to submit to such chemical test or any portion thereof, **and/or an evaluation or any portion thereof conducted by a certified drug recognition expert or any portion thereof,** unless a court order has been granted pursuant to subdivision three of this section, the test shall not be given and a written report of such refusal shall be immediately made by the police officer before whom such refusal was made. Such report may be verified by having the report sworn to, or by affixing to such report a form notice that false statements made therein are

punishable as a class A misdemeanor pursuant to section 210.45 of the penal law and such form notice together with the subscription of the deponent shall constitute a verification of the report.

(2) The report of the police officer shall set forth reasonable grounds to believe such arrested person or such detained person under the age of twenty-one had been driving in violation of any subdivision of section eleven hundred ninety-two or eleven hundred ninety-two-a of this article, that said person had refused to submit to such chemical test, **or an evaluation or any portion thereof conducted by a certified drug recognition expert or any portion thereof,** and that no chemical test **or evaluation conducted by a certified drug recognition expert** was administered pursuant to the requirements of subdivision three of this section. The report shall be presented to the court upon arraignment of an arrested person, provided, however, in the case of a person under the age of twenty-one, for whom a test was authorized pursuant to the provisions of subparagraph two or three of paragraph (a) of this subdivision, and who has not been placed under arrest for a violation of any of the provisions of section eleven hundred ninety-two of this article, such report shall be forwarded to the commissioner within forty-eight hours in a manner to be prescribed by the commissioner, and all subsequent proceedings with regard to refusal to submit to such chemical test **and/or an evaluation conducted by a certified drug recognition expert** by such person shall be as set forth in subdivision three of section eleven hundred ninety-four-a of this article.

(3) For persons placed under arrest for a violation of any subdivision of section eleven hundred ninety-two of this article, the license or permit to drive and any non-resident operating privilege shall, upon the basis of such written report, be temporarily suspended by the court without notice pending the determination of a hearing as provided in paragraph (c) of this subdivision. Copies of such report must be transmitted by the court to the commissioner and such transmittal may not be waived even with the consent of all the parties. Such report shall be forwarded to the commissioner within forty-eight hours of such arraignment.

(4) The court or the police officer, in the case of a person under the age of twenty-one alleged to be driving after having consumed alcohol, shall provide such person with a scheduled hearing date, a waiver form, and such other information as may be required by the commissioner. If a hearing, as provided for in paragraph (c) of this subdivision, or subdivision three of section eleven hundred ninety-four-a of this article, is waived by such person, the commissioner shall immediately revoke the license, permit, or non-resident operating privilege, as of the date of receipt of such waiver in accordance with the provisions of paragraph (d) of this subdivision.

(c) Hearings. Any person whose license or permit to drive or any non-resident driving privilege has been suspended pursuant to paragraph (b) of this subdivision is entitled to a hearing in accordance with a hearing schedule to be promulgated by the commissioner. If the department fails to provide for such hearing fifteen days after the date of the arraignment of the arrested person, the license, permit to drive or non-resident operating privilege of such person shall be reinstated pending a hearing pursuant to this section. The hearing shall be limited to the following issues: (1) did the police officer have reasonable grounds to believe that such person had been driving in violation of any subdivision of section eleven hundred ninety-two of this article; (2) did the police officer make a lawful arrest of such person; (3) was such

person given sufficient warning, in clear or unequivocal language, prior to such refusal that such refusal to submit to such chemical test or any portion thereof **and/or an evaluation or any portion thereof conducted by a certified drug recognition expert**, would result in the immediate suspension and subsequent revocation of such person's license or operating privilege whether or not such person is found guilty of the charge for which the arrest was made; and (4) did such person refuse to submit to such chemical test or any portion thereof **and/or an evaluation or any portion thereof conducted by a certified drug recognition expert**. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds on any one of said issues in the negative, the hearing officer shall immediately terminate any suspension arising from such refusal. If, after such hearing, the hearing officer, acting on behalf of the commissioner finds all of the issues in the affirmative, such officer shall immediately revoke the license or permit to drive or any non-resident operating privilege in accordance with the provisions of paragraph (d) of this subdivision. A person who has had a license or permit to drive or non-resident operating privilege suspended or revoked pursuant to this subdivision may appeal the findings of the hearing officer in accordance with the provisions of article three-A of this chapter. Any person may waive the right to a hearing under this section. Failure by such person to appear for the scheduled hearing shall constitute a waiver of such hearing, provided, however, that such person may petition the commissioner for a new hearing which shall be held as soon as practicable.

(d) Sanctions. (1) Revocations. a. Any license which has been revoked pursuant to paragraph (c) of this subdivision shall not be restored for at least one year after such revocation, nor thereafter, except in the discretion of the commissioner. However, no such license shall be restored for at least eighteen months after such revocation, nor thereafter except in the discretion of the commissioner, in any case where the person has had a prior revocation resulting from refusal to submit to a chemical test **and/or an evaluation or any portion thereof conducted by a certified drug recognition expert**, or has been convicted of or found to be in violation of any subdivision of section eleven hundred ninety-two or section eleven hundred ninety-two-a of this article not arising out of the same incident, within the five years immediately preceding the date of such revocation; provided, however, a prior finding that a person under the age of twenty-one has refused to submit to a chemical test pursuant to subdivision three of section eleven hundred ninety-four-a of this article shall have the same effect as a prior finding of a refusal pursuant to this subdivision solely for the purpose of determining the length of any license suspension or revocation required to be imposed under any provision of this article, provided that the subsequent offense or refusal is committed or occurred prior to the expiration of the retention period for such prior refusal as set forth in paragraph (k) of subdivision one of section two hundred one of this chapter.

b. Any license which has been revoked pursuant to paragraph (c) of this subdivision or pursuant to subdivision three of section eleven hundred ninety-four-a of this article, where the holder was under the age of twenty-one years at the time of such refusal, shall not be restored for at least one year, nor thereafter, except in the discretion of the commissioner. Where such person under the age of twenty-one years has a prior finding, conviction or youthful offender adjudication resulting from a violation of section eleven hundred ninety-two or

section eleven hundred ninety-two-a of this article, not arising from the same incident, such license shall not be restored for at least one year or until such person reaches the age of twenty-one years, whichever is the greater period of time, nor thereafter, except in the discretion of the commissioner.

c. Any commercial driver's license which has been revoked pursuant to paragraph (c) of this subdivision based upon a finding of refusal to submit to a chemical test **and/or an evaluation or any portion thereof conducted by a certified drug recognition expert**, where such finding occurs within or outside of this state, shall not be restored for at least eighteen months after such revocation, nor thereafter, except in the discretion of the commissioner, but shall not be restored for at least three years after such revocation, nor thereafter, except in the discretion of the commissioner, if the holder of such license was operating a commercial motor vehicle transporting hazardous materials at the time of such refusal. However, such person shall be permanently disqualified from operating a commercial motor vehicle in any case where the holder has a prior finding of refusal to submit to a chemical test **and/or an evaluation or any portion thereof conducted by a certified drug recognition expert** pursuant to this section or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this article; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter. Provided that the commissioner may waive such permanent revocation after a period of ten years has expired from such revocation provided:

(i) that during such ten year period such person has not been found to have refused a chemical test **or an evaluation or any portion thereof conducted by a certified drug recognition expert** pursuant to this section and has not been convicted of any one of the following offenses: any violation of section eleven hundred ninety-two of this article; refusal to submit to a chemical test **or an evaluation or any portion thereof conducted by a certified drug recognition expert** pursuant to this section; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter;

(ii) that such person provides acceptable documentation to the commissioner that such person is not in need of alcohol or drug treatment or has satisfactorily completed a prescribed course of such treatment; and

(iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.

d. Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances.

(2) Civil penalties. Except as otherwise provided, any person whose license, permit to drive, or any non-resident operating privilege is revoked pursuant to the provisions of this section shall also be liable for a civil penalty in the amount of five hundred dollars except that if such revocation is a second or subsequent revocation pursuant to this section issued within a five year period, or such person has been

convicted of a violation of any subdivision of section eleven hundred ninety-two of this article within the past five years not arising out of the same incident, the civil penalty shall be in the amount of seven hundred fifty dollars. Any person whose license is revoked pursuant to the provisions of this section based upon a finding of refusal to submit to a chemical test while operating a commercial motor vehicle shall also be liable for a civil penalty of five hundred fifty dollars except that if such person has previously been found to have refused a chemical test **and/or an evaluation conducted by a certified drug recognition expert or any portion thereof** pursuant to this section while operating a commercial motor vehicle or has a prior conviction of any of the following offenses while operating a commercial motor vehicle: any violation of section eleven hundred ninety-two of this article; any violation of subdivision two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a commercial motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter, then the civil penalty shall be seven hundred fifty dollars. No new driver's license or permit shall be issued, or non-resident operating privilege restored to such person unless such penalty has been paid. All penalties collected by the department pursuant to the provisions of this section shall be the property of the state and shall be paid into the general fund of the state treasury.

(3) Effect of rehabilitation program. No period of revocation arising out of this section may be set aside by the commissioner for the reason that such person was a participant in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article.

(e) Regulations. The commissioner shall promulgate such rules and regulations as may be necessary to effectuate the provisions of subdivisions one and two of this section.

(f) Evidence. Evidence of a refusal to submit to such chemical test or any portion thereof **or an evaluation conducted by a drug recognition expert** shall be admissible in any trial, proceeding or hearing based upon a violation of the provisions of section eleven hundred ninety-two of this article but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and that the person persisted in the refusal.

(g) Results. Upon the request of the person who was tested, the results of such test shall be made available to such person.

3. Compulsory chemical tests. (a) Court ordered chemical tests. Notwithstanding the provisions of subdivision two of this section, no person who operates a motor vehicle in this state may refuse to submit to a chemical test of one or more of the following: breath, blood, urine or [~~saliva~~] **oral/bodily fluids**, for the purpose of determining the alcoholic and/or drug content of the blood **or oral/bodily fluids** when a court order for such chemical test has been issued in accordance with the provisions of this subdivision.

(b) When authorized. Upon refusal by any person to submit to a chemical test or any portion thereof as described above, the test shall not be given unless a police officer or a district attorney, as defined in subdivision thirty-two of section 1.20 of the criminal procedure law, requests and obtains a court order to compel a person to submit to a chemical test to determine the alcoholic **and/**or drug content of the person's blood **or oral/bodily fluids** upon a finding of reasonable cause to believe that:

(1) such person was the operator of a motor vehicle [~~and in the course of such operation a person other than the operator was killed or suffered serious physical injury as defined in section 10.00 of the penal law~~]; and

(2) a. either such person operated the vehicle in violation of any subdivision of section eleven hundred ninety-two of this article, or b. a breath **test and/or oral/bodily fluid** test administered by a police officer in accordance with paragraph (b) of subdivision one of this section indicates that alcohol **and/or drug or drugs** has been consumed by such person; and

(3) such person has been placed under lawful arrest; and

(4) such person has refused to submit to a chemical test **and/**or **an evaluation conducted by a certified drug recognition expert, or** any portion thereof, requested in accordance with the provisions of paragraph (a) of subdivision two of this section or is unable to give consent to such a test.

(c) Reasonable cause; definition. For the purpose of this subdivision "reasonable cause" shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of section eleven hundred ninety-two of this article. Such circumstances may include, but are not limited to: evidence that the operator was operating a motor vehicle in violation of any provision of this article or any other moving violation at the time of the incident; any visible indication of alcohol or drug consumption or impairment by the operator; the existence of an open container containing an alcoholic beverage **and/or drug or drugs** in or around the vehicle driven by the operator; **the odor of cannabis or burnt cannabis;** any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle while impaired by the consumption of alcohol or drugs or intoxicated at the time of the incident.

(d) Court order; procedure. (1) An application for a court order to compel submission to a chemical test or any portion thereof, may be made to any supreme court justice, county court judge or district court judge in the judicial district in which the incident occurred, or if the incident occurred in the city of New York before any supreme court justice or judge of the criminal court of the city of New York. Such application may be communicated by telephone, radio or other means of electronic communication, or in person.

(2) The applicant must provide identification by name and title and must state the purpose of the communication. Upon being advised that an application for a court order to compel submission to a chemical test is being made, the court shall place under oath the applicant and any other person providing information in support of the application as provided in subparagraph three of this paragraph. After being sworn the applicant must state that the person from whom the chemical test was requested was the operator of a motor vehicle and [~~in the course of such operation a person, other than the operator, has been killed or seriously injured and~~], based upon the totality of circumstances, there is reasonable cause to believe that such person was operating a motor vehicle in violation of any subdivision of section eleven hundred ninety-two of this article and, after being placed under lawful arrest such person refused to submit to a chemical test or any portion thereof, in accordance with the provisions of this section or is unable to give consent to such a test or any portion thereof. The applicant must make specific allegations of fact to support such statement. Any other person properly

identified, may present sworn allegations of fact in support of the applicant's statement.

(3) Upon being advised that an oral application for a court order to compel a person to submit to a chemical test is being made, a judge or justice shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within seventy-two hours of the issuance of the court order. If the longhand notes are taken, the judge shall subscribe a copy and file it with the court within twenty-four hours of the issuance of the order.

(4) If the court is satisfied that the requirements for the issuance of a court order pursuant to the provisions of paragraph (b) of this subdivision have been met, it may grant the application and issue an order requiring the accused to submit to a chemical test to determine the alcoholic and/or drug content of his blood and**/or oral/bodily fluids** ordering the withdrawal of a blood **and/or oral/bodily fluid** sample in accordance with the provisions of paragraph (a) of subdivision four of this section. When a judge or justice determines to issue an order to compel submission to a chemical test based on an oral application, the applicant therefor shall prepare the order in accordance with the instructions of the judge or justice. In all cases the order shall include the name of the issuing judge or justice, the name of the applicant, and the date and time it was issued. It must be signed by the judge or justice if issued in person, or by the applicant if issued orally.

(5) Any false statement by an applicant or any other person in support of an application for a court order shall subject such person to the offenses for perjury set forth in article two hundred ten of the penal law.

(6) The chief administrator of the courts shall establish a schedule to provide that a sufficient number of judges or justices will be available in each judicial district to hear oral applications for court orders as permitted by this section.

(e) Administration of compulsory chemical test. An order issued pursuant to the provisions of this subdivision shall require that a chemical test to determine the alcoholic and/or drug content of the operator's blood **and/or oral/bodily fluid** must be administered. The provisions of paragraphs (a), (b) and (c) of subdivision four of this section shall be applicable to any chemical test administered pursuant to this section.

§ 33-b. Subdivision 1 of section 1227 of the vehicle and traffic law, as amended by section 3 of part F of chapter 60 of the laws of 2005, is amended to read as follows:

1. The drinking of alcoholic beverages **or consumption of cannabis**, or the possession of an open container containing an alcoholic beverage **or cannabis**, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction.

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 **or cannabis** by passengers in passenger vehicles oper-

ated pursuant to a certificate or permit issued by the department of transportation or the United States department of transportation. Furthermore, the provisions of this section shall not be deemed to prohibit the possession of wine which is: (a) resealed in accordance with the provisions of subdivision four of section eighty-one of the alcoholic beverage control law; and (b) is transported in the vehicle's trunk or is transported behind the last upright seat or in an area not normally occupied by the driver or passenger in a motor vehicle that is not equipped with a trunk.

§ 34. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, **twenty-C,** twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be

credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 35. Section 490 of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 490. [~~Definitions~~] **Excise tax on medical cannabis**. 1. (a) [~~All definitions of terms applicable to title five-A of article thirty-three of the public health law shall apply to this article.~~] **For purposes of this article, the terms "medical cannabis," "registered organization," "certified patient," and "designated caregiver" shall have the same definitions as in section three of the cannabis law.**

(b) As used in this section, where not otherwise specifically defined and unless a different meaning is clearly required "gross receipt" means the amount received in or by reason of any sale, conditional or otherwise, of medical [~~marihuana~~] **cannabis** or in or by reason of the furnishing of medical [~~marihuana~~] **cannabis** from the sale of medical [~~marihuana~~]

cannabis provided by a registered organization to a certified patient or designated caregiver. Gross receipt is expressed in money, whether paid in cash, credit or property of any kind or nature, and shall be determined without any deduction therefrom on account of the cost of the service sold or the cost of materials, labor or services used or other costs, interest or discount paid, or any other expenses whatsoever. "Amount received" for the purpose of the definition of gross receipt, as the term gross receipt is used throughout this article, means the amount charged for the provision of medical [~~marihuana~~] cannabis.

2. There is hereby imposed an excise tax on the gross receipts from the sale of medical [~~marihuana~~] cannabis by a registered organization to a certified patient or designated caregiver, to be paid by the registered organization, at the rate of seven percent. The tax imposed by this article shall be charged against and be paid by the registered organization and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

3. The commissioner may make, adopt and amend rules, regulations, procedures and forms necessary for the proper administration of this article.

4. Every registered organization that makes sales of medical [~~marihuana~~] cannabis subject to the tax imposed by this article shall, on or before the twentieth date of each month, file with the commissioner a return on forms to be prescribed by the commissioner, showing its receipts from the retail sale of medical [~~marihuana~~] cannabis during the preceding calendar month and the amount of tax due thereon. Such returns shall contain such further information as the commissioner may require. Every registered organization required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due on its retail sales of medical [~~marihuana~~] cannabis for the period covered by such return. If a return is not filed when due, the tax shall be due on the day on which the return is required to be filed.

5. Whenever the commissioner shall determine that any moneys received under the provisions of this article were paid in error, he may cause the same to be refunded, with interest, in accordance with such rules and regulations as he may prescribe, except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter, or if no rate is set, at the rate of six percent per annum, from the date when the tax, penalty or interest to be refunded was paid to a date preceding the date of the refund check by not more than thirty days. Provided, however, that for the purposes of this subdivision, any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. Such moneys received under the provisions of this article which the commissioner shall determine were paid in error, may be refunded out of funds in the custody of the comptroller to the credit of such taxes provided an application therefor is filed with the commissioner within two years from the time the erroneous payment was made.

6. The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such

article is either inconsistent with a provision of this article or is not relevant to this article.

7. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the medical [~~marihuana~~] **cannabis** trust fund established by section eighty-nine-h of the state finance law.

8. A registered organization that dispenses medical [~~marihuana~~] **cannabis** shall provide to the department information on where the medical [~~marihuana~~] **cannabis** was dispensed and where the medical [~~marihuana~~] **cannabis** was manufactured. A registered organization that obtains [~~marihuana~~] **cannabis** from another registered organization shall obtain from such registered organization information on where the medical [~~marihuana~~] **cannabis** was manufactured.

§ 36. Section 491 of the tax law, as added by chapter 90 of the laws of 2014, subdivision 1 as amended by section 1 of part II of chapter 60 of the laws of 2016, is amended to read as follows:

§ 491. Returns to be secret. 1. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person engaged or retained by such department on an independent contract basis or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the contents or any other information relating to the business of a distributor, owner or other person contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, [~~the state department of health~~] **office of cannabis management**, or the commissioner in an action or proceeding under the provisions of this chapter or on behalf of the state or the commissioner in any other action or proceeding involving the collection of a tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding relating to the regulation or taxation of medical [~~marihuana~~] **cannabis** on behalf of officers to whom information shall have been supplied as provided in subdivision two of this section, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the [~~state department of health~~] **office of cannabis**

management; or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a registered organization or other person under this article; nor to prohibit the delivery to a registered organization, or a duly authorized representative of such registered organization, a certified copy of any return or report filed by such registered organization pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all the registered organizations making sales of, or manufacturing, medical [~~marihuana~~] cannabis in a specified county, whether the number of such registered organizations is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may, in his or her discretion, permit the proper officer of any county entitled to receive an allocation, following appropriation by the legislature, pursuant to this article and section eighty-nine-h of the state finance law, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or such representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

2. The commissioner, in his or her discretion and pursuant to such rules and regulations as he or she may adopt, may permit [~~the commissioner of internal revenue of the United States, or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] cannabis, or the duly authorized representatives of such [~~commissioner or of any such~~] officers, to inspect returns or reports made pursuant to this article, or may furnish to such [~~commissioner or~~] other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply [~~such commissioner or~~] any such officers or such representatives with information relating to the business of a registered organization making returns or reports hereunder. The commissioner may refuse to supply information pursuant to this subdivision [~~to the commissioner of internal revenue of the United States or~~] to the officers of any other state if the statutes [~~of the United States, or~~] of the state represented by such officers, do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to [~~the commissioner of internal revenue of the United States or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] cannabis, or the duly authorized representatives [~~of such commissioner or~~] of any of such officers, unless such [~~commissioner,~~] officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be

subject to the same restrictions as those hereby imposed upon such [~~commissioner,~~] officer or other representatives.

3. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 37. The tax law is amended by adding a new article 20-C to read as follows:

ARTICLE 20-C

TAX ON ADULT-USE CANNABIS PRODUCTS

Section 492. Definitions.
493. Imposition of tax.
494. Registration and renewal.
495. Returns and payment of tax.
496. Records to be kept; penalties.
496-a. Returns to be secret.
496-b. Administrative provisions.
496-c. Illicit cannabis penalty.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Adult-use cannabis product" 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, or the form, packaging, or content of which is not permitted by the office of cannabis management, as applicable.

(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 seven 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 one cent per milligram of the amount of total THC, as reflected on the product label; and

(3) cannabis edible product at the rate of four cents per milligram of the amount of total THC, as reflected on the product label. This tax shall accrue at the time of such sale or transfer. Where a person who distributes adult-use cannabis is licensed under the cannabis law as a microbusiness, cooperative or registered organization, such person shall be liable for the tax, and such tax shall accrue at the time of the retail sale.

(b) In addition to any other tax imposed by this chapter or other law, there is hereby imposed a tax of ten and one-quarter percent on receipts from the retail sale of adult-use cannabis products sold in this state. The tax is imposed on the retail customer and shall be collected at the time of the retail sale by the person who sells adult-use cannabis products at retail, in trust for and on account of the state.

§ 494. Registration and renewal. (a) (i) Every distributor on whom tax is imposed under this article and every person who sells adult-use cannabis products at retail must file with the commissioner a properly completed application for a certificate of registration before engaging in business. An application for a certificate of registration must be submitted electronically, on a form prescribed by the commissioner, and must be accompanied by a non-refundable application fee of six hundred dollars. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon such person ceasing to do business as specified in such certificate, or in the event that such business never commenced.

(ii) Provided, however, that the commissioner shall refund or credit an application fee paid with respect to the registration of an adult-use cannabis business in this state if, prior to the beginning of the period with respect to which such registration relates, the certificate of registration described in subparagraph (i) of this paragraph is returned to the department or, if such certificate has been destroyed, the operator of such business satisfactorily accounts to the commissioner for the missing certificate, but such business may not sell adult-use cannabis products in this state during such period, unless it is re-registered. Such refund or credit shall be deemed a refund of tax paid in error, provided, however, no interest shall be allowed or paid on any such refund.

(b) The commissioner shall refuse to issue a certificate of registration to any applicant and shall revoke the certificate of registration of any such person who does not possess a valid license from the office of cannabis management or a valid certificate of authority issued pursu-

ant to section eleven hundred thirty-four of this chapter. The commissioner may refuse to issue a certificate of registration to any applicant where such applicant:

(i) has a past-due liability as that term is defined in section one hundred seventy-one-v of this chapter;

(ii) has had a certificate of registration under this article, a license from the office of cannabis management, or any license or registration provided for in this chapter revoked or suspended where such revocation or suspension was in effect on the date the application was filed or ended within one year from the date on which such application was filed;

(iii) has been convicted of a crime provided for in this chapter within one year from the date on which such application was filed or the certificate was issued, as applicable;

(iv) willfully fails to file a report or return required by this article;

(v) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false; or

(vi) willfully fails to collect or truthfully account for or pay over any tax imposed by this article.

(c) A certificate of registration shall be valid for the period specified thereon, unless earlier suspended or revoked. Upon the expiration of the term stated on a certificate of registration, such certificate shall be null and void.

(d) Every holder of a certificate of registration must notify the commissioner of changes to any of the information stated on the certificate, or of changes to any information contained in the application for the certificate of registration. Such notification must be made on or before the last day of the month in which a change occurs and must be made electronically on a form prescribed by the commissioner.

(e) Every holder of a certificate of registration under this article shall be required to reapply prior to such certificate's expiration, during a reapplication period established by the commissioner. Such reapplication period shall not occur more frequently than every two years. Such reapplication shall be subject to the same requirements and conditions as an initial application, including grounds for refusal and the payment of the application fee.

(f) Any person who is required to obtain a certificate of registration under subdivision (a) of this section who possesses adult-use cannabis products without such certificate shall be subject to a penalty of five hundred dollars for each month or part thereof during which adult-use cannabis products are possessed without such certificate, not to exceed ten thousand dollars in the aggregate.

§ 495. Returns and payment of tax. (a)(i) Every distributor on whom tax is imposed under this article shall, on or before the twentieth date of each month, file with the commissioner a return on forms to be prescribed by the commissioner, showing the total THC content of adult-use cannabis products subject to tax pursuant to subdivision (a) of section four hundred ninety-three of this article and the total amount of tax due thereon in the preceding calendar month, along with such other information as the commissioner may require.

(ii) Every person who sells adult-use cannabis products to retail customers shall file with the commissioner a quarterly return on forms to be prescribed by the commissioner, showing the total amount of tax due under subdivision (b) of section four hundred ninety-three of this

article in the preceding quarter, along with 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 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 preceding 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 proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection

or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the office of cannabis management; or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by any person under this article; nor to prohibit the delivery to such person or a duly authorized representative of such person, a certified copy of any return or report filed by such person pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all persons subject to the taxes imposed by the article, whether the number of such persons is one or more.

(b) The commissioner, in his or her discretion, may permit the appropriate officers of any other state that regulates or taxes cannabis or the duly authorized representatives of any such officers, to inspect returns or reports made pursuant to this article, or may furnish to such other officers, or their 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 any such officers or such representatives with information relating to the business of a person making returns or reports hereunder solely for purposes of tax administration. The commissioner may refuse to supply information pursuant to this subdivision to the officers of any other state if the statutes of the state represented by such officers do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to the officers of any state that regulates or taxes cannabis, or their duly authorized representatives of any such officers, unless such 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 officer or other representatives.

(c)(1) Any officer or employee of the state who willfully violates the provisions of subdivision (a) or (b) of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(2) For criminal penalties, see article thirty-seven of this chapter.

§ 496-b. Administrative provisions. (a)(1) The provisions of article twenty-seven of this chapter shall apply to the tax imposed by subdivision (a) of section four hundred ninety-three of this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

(2) The tax imposed by subdivision (b) of section four hundred ninety-three of this article shall be administered and collected in a like

manner as and jointly with the taxes imposed by sections eleven hundred five and eleven hundred ten of this chapter. In addition, except as otherwise provided in this article, all of the provisions of article twenty-eight of this chapter (except sections eleven hundred seven, eleven hundred eight, eleven hundred nine, and eleven hundred forty-eight) relating to or applicable to the administration, collection and review of the taxes imposed by such sections eleven hundred five and eleven hundred ten, including, but not limited to, the provisions relating to definitions, returns, exemptions, penalties, personal liability for the tax, and collection of tax from the customer, shall apply to the taxes imposed by this article so far as such provisions can be made applicable to the taxes imposed by this article with such limitations as set forth in full in this article and such modifications as may be necessary in order to adapt such language to the taxes so imposed. Such provisions shall apply with the same force and effect as if the language of those provisions had been set forth in full except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to the taxes imposed by this article.

(b)(1) All taxes, interest, and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the cannabis revenue fund established by section ninety-nine-ii of the state finance law. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds. The commissioner is authorized and directed to deduct from the registration fees under subdivision (a) of section four hundred ninety-four of this article, before deposit into the cannabis revenue fund designated by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect, and distribute the taxes imposed by this article.

§ 496-c. Illicit cannabis penalty. (a) In addition to any other civil or criminal penalties that may apply, any person in possession of or 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 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 eight 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 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 eight 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, but not to exceed one thousand dollars per ounce

of illicit cannabis flower, forty dollars per milligram of the total weight of any illicit cannabis edible product, four hundred dollars per gram of the total weight of any product containing illicit cannabis concentrate, and four 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 in possession of less than two ounces of adult-use cannabis or ten grams of concentrated cannabis.

§ 38. Subparagraph (A) of paragraph 1 of subdivision (a) of section 1115 of the tax law, as amended by section 1 of part CCC of chapter 59 of the laws of 2019, is amended to read as follows:

(A) Food, food products, beverages, dietary foods and health supplements, sold for human consumption but not including (i) candy and confectionery, (ii) fruit drinks which contain less than seventy percent of natural fruit juice, (iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) [~~and~~], (iv) beer, wine or other alcoholic beverages, and (v) adult-use cannabis products as defined in article twenty-C of this chapter, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing in this subparagraph shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five of this article.

§ 39. Intentionally omitted.

§ 39-a. Paragraph 3 of subdivision (a) of section 1115 of the tax law, as amended by chapter 201 of the laws of 1976, is amended to read as follows:

(3) Drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment or prevention of illnesses or diseases in human beings, medical equipment (including component parts thereof) and supplies required for such use or to correct or alleviate physical incapacity, and products consumed by humans for the preservation of health but not including: (i) cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein [~~or~~]; (ii) medical equipment (including component parts thereof) and supplies, other than such drugs and medicines, purchased at retail for use in performing medical and similar services for compensation; and (iii) adult-use cannabis products, as defined by article twenty-C of this chapter.

§ 39-b. 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.

§ 39-c. 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.

§ 39-d. Subdivision (b) of section 1116 of the tax law is amended by adding a new paragraph 8 to read as follows:

8. Nothing in this section shall exempt purchases or sales of adult-use cannabis products, as defined by article twenty-C of this chapter, by an organization described in paragraphs four, five, seven, eight, and nine of subdivision (a) of this section.

§ 40. Section 12 of chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, is amended to read as follows:

§ 12. This act shall take effect immediately [~~and~~]**; provided, however that sections one, three, five, seven-a, eight, nine, ten and eleven of this act** shall expire and be deemed repealed [~~seven~~] **fourteen** years after such date; provided that **sections 490 and 491 of the tax law shall expire and be deemed repealed fourteen years after such date and that** the amendments to section 171-a of the tax law made by section seven of this act shall take effect on the same date and in the same manner as section 54 of part A of chapter 59 of the laws of 2014 takes effect **and shall not expire and be deemed repealed;** and provided, further, that the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section eleven of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.

§ 41. The office of cannabis management, in consultation with the division of the budget, the department of taxation and finance and the department of health shall conduct a study of the effectiveness of this act. Such study shall examine all aspects of the program, including the economic and fiscal aspects of the program, the impact of the program on the public health and safety of New York residents and the progress made in achieving social justice goals and toward eliminating the illegal market for cannabis products in New York. The office shall make recommendations regarding the appropriate level of taxation as well as any recommended changes to the taxation and regulatory structure of the program. In addition, the office shall also recommend changes, if any, necessary to improve and protect the public health and safety of New Yorkers. Such study shall be conducted two years after the effective date of this act and shall be presented to the governor, the temporary president of the senate and the speaker of the assembly, no later than October 1, 2024.

§ 42. Section 102 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

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

§ 43. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the general obligations law, as added by chapter 406 of the laws of 2000, are amended to read as follows:

1. "Illegal drug" means any controlled substance [~~or marijuana~~] the possession of which is an offense under the public health law or the penal law.

4. "Grade one violation" means possession of one-quarter ounce or more, but less than four ounces, or distribution of less than one ounce of an illegal drug [~~other than marijuana, or possession of one pound or twenty-five plants or more, but less than four pounds or fifty plants, or distribution of less than one pound of marijuana~~].

5. "Grade two violation" means possession of four ounces or more, but less than eight ounces, or distribution of one ounce or more, but less than two ounces, of an illegal drug [~~other than marijuana, or possession~~

~~of four pounds or more or fifty plants or distribution of more than one pound but less than ten pounds of marijuana~~].

6. "Grade three violation" means possession of eight ounces or more, but less than sixteen ounces, or distribution of two ounces or more, but less than four ounces, of a specified illegal drug [~~or possession of eight pounds or more or seventy-five plants or more, but less than sixteen pounds or one hundred plants, or distribution of more than five pounds but less than ten pounds of marijuana~~].

7. "Grade four violation" means possession of sixteen ounces or more or distribution of four ounces or more of a specified illegal drug [~~or possession of sixteen pounds or more or one hundred plants or more or distribution of ten pounds or more of marijuana~~].

13. "Drug trafficker" means a person convicted of a class A or class B felony controlled substance [~~or marijuana offense~~] who, in connection with the criminal conduct for which he or she stands convicted, possessed, distributed, sold or conspired to sell a controlled substance [~~or marijuana~~] which, by virtue of its quantity, the person's prominent role in the enterprise responsible for the sale or distribution of such controlled substance and other circumstances related to such criminal conduct indicate that such person's criminal possession, sale or conspiracy to sell such substance was not an isolated occurrence and was part of an ongoing pattern of criminal activity from which such person derived substantial income or resources and in which such person played a leadership role.

§ 44. 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 rules, regulations, policies, or procedures of the state oversight agency or agencies 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.

§ 44-a. Subdivision 1 of section 151 of the social services law, as amended by section 2 of part F of chapter 58 of the laws of 2014, is amended to read as follows:

1. Unauthorized transactions. Except as otherwise provided in subdivision two of this section, no person, firm, establishment, entity, or corporation (a) licensed under the provisions of the alcoholic beverage control law to sell liquor and/or wine at retail for off-premises consumption; (b) licensed to sell beer at wholesale and also authorized to sell beer at retail for off-premises consumption; (c) licensed or authorized to conduct pari-mutuel wagering activity under the racing, pari-mutuel wagering and breeding law; (d) licensed to participate in charitable gaming under article fourteen-H of the general municipal law; (e) licensed to participate in the operation of a video lottery facility under section one thousand six hundred seventeen-a of the tax law; (f) licensed to operate a gaming facility under section one thousand three hundred eleven of the racing, pari-mutuel wagering and breeding law; [~~or~~] (g) **licensed to operate an adult-use cannabis retail dispensary**

pursuant to the cannabis law: or (h) providing adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, or making available the venue in which performers disrobe or perform in an unclothed state for entertainment, shall cash or accept any public assistance check or electronic benefit transfer device issued by a public welfare official or department, or agent thereof, as and for public assistance.

§ 44-b. Subdivision 3 of section 151 of the social services law is amended by adding a new paragraph (d) to read as follows:

(d) A violation of the provisions of subdivision one of this section taking place at the licensed premises by a person, firm, establishment, entity or corporation licensed pursuant to the cannabis law to operate an adult-use cannabis retail dispensary shall subject such person, firm, establishment, entity or corporation to penalties and injunctions pursuant to section sixteen of article two of the cannabis law.

§ 45. Paragraphs (e) and (f) of subdivision 1 of section 490 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, are amended and a new paragraph (g) is added to read as follows:

(e) information regarding individual reportable incidents, incident patterns and trends, and patterns and trends in the reporting and response to reportable incidents is shared, consistent with applicable law, with the justice center, in the form and manner required by the justice center and, for facilities or provider agencies that are not state operated, with the applicable state oversight agency which shall provide such information to the justice center; [~~and~~]

(f) incident review committees are established; provided, however, that the regulations may authorize an exemption from this requirement, when appropriate, based on the size of the facility or provider agency or other relevant factors. Such committees shall be composed of members of the governing body of the facility or provider agency and other persons identified by the director of the facility or provider agency, including some members of the following: direct support staff, licensed health care practitioners, service recipients and representatives of family, consumer and other advocacy organizations, but not the director of the facility or provider agency. Such committee shall meet regularly to: (i) review the timeliness, thoroughness and appropriateness of the facility or provider agency's responses to reportable incidents; (ii) recommend additional opportunities for improvement to the director of the facility or provider agency, if appropriate; (iii) review incident trends and patterns concerning reportable incidents; and (iv) make recommendations to the director of the facility or provider agency to assist in reducing reportable incidents. Members of the committee shall be trained in confidentiality laws and regulations, and shall comply with section seventy-four of the public officers law[~~.~~]; and

(g) safe storage, administration, and diversion prevention policies regarding controlled substances and medical cannabis.

§ 46. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

§ 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; definitions.

The following definitions are applicable to this article:

1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis as defined in [~~subdivision eight of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law.

2. "Certification" means a certification, made under section [~~thirty-three hundred sixty-one of the public health law~~] thirty of the cannabis law.

§ 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limitations.

The provisions of this article shall not apply to:

1. a practitioner authorized to issue a certification who acted in good faith in the lawful course of his or her profession; or

2. a registered organization as that term is defined in [~~subdivision nine of section thirty-three hundred sixty of the public health law~~] section thirty-four of the cannabis law who acted in good faith in the lawful course of the practice of pharmacy; or

3. a person who acted in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition.

§ 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] cannabis in the first degree when he or she is a practitioner, as that term is defined in [~~subdivision twelve of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law, who issues a certification with knowledge of reasonable grounds to know that (i) the recipient has no medical need for it, or (ii) it is for a purpose other than to treat a serious condition as defined in [~~subdivision seven of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the first degree is a class E felony.

§ 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the second degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] cannabis in the second degree when he or she sells, trades, delivers, or otherwise provides medical [~~marihuana~~] cannabis to another with knowledge or reasonable grounds to know that the recipient is not registered under [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the second degree is a class B misdemeanor.

§ 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

A person is guilty of criminal retention of medical [~~marihuana~~] cannabis when, being a certified patient or designated caregiver, as those terms are defined in [~~subdivisions three and five of section thirty-three hundred sixty of the public health law, respectively~~] section three of the cannabis law, he or she knowingly obtains, possesses, stores or maintains an amount of [~~marihuana~~] cannabis in excess of the amount he or she is authorized to possess under the provisions of [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal retention of medical [~~marihuana~~] cannabis is a class A misdemeanor.

§ 47. Section 220.78 of the penal law, as added by chapter 154 of the laws of 2011, is amended to read as follows:

§ 220.78 Witness or victim of drug or alcohol overdose.

1. A person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency shall not be charged or prosecuted for a controlled

substance offense under article two hundred twenty or a [~~marihuana~~] **cannabis** offense under article two hundred twenty-one of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any controlled substance, [~~marihuana~~] **cannabis**, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

2. A person who is experiencing a drug or alcohol overdose or other life threatening medical emergency and, in good faith, seeks health care for himself or herself or is the subject of such a good faith request for health care, shall not be charged or prosecuted for a controlled substance offense under this article or a [~~marihuana~~] **cannabis** offense under article two hundred twenty-one of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any substance, [~~marihuana~~] **cannabis**, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

3. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Drug or alcohol overdose" or "overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; provided that a patient's condition shall be deemed to be a drug or alcohol overdose if a prudent layperson, possessing an average knowledge of medicine and health, could reasonably believe that the condition is in fact a drug or alcohol overdose and (except as to death) requires health care.

(b) "Health care" means the professional services provided to a person experiencing a drug or alcohol overdose by a health care professional licensed, registered or certified under title eight of the education law or article thirty of the public health law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services for a person experiencing a drug or alcohol overdose.

4. It shall be an affirmative defense to a criminal sale controlled substance offense under this article or a criminal sale of [~~marihuana~~] **cannabis** offense under article two hundred twenty-one of this title, not covered by subdivision one or two of this section, with respect to any controlled substance or [~~marihuana~~] **cannabis** which was obtained as a result of such seeking or receiving of health care, that:

(a) the defendant, in good faith, seeks health care for someone or for him or herself who is experiencing a drug or alcohol overdose or other life threatening medical emergency; and

(b) the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under this article.

5. Nothing in this section shall be construed to bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently

qualify for the bar to prosecution or for the affirmative defense; nor with regard to other crimes committed by a person who otherwise qualifies under this section; nor shall anything in this section be construed to bar any seizure pursuant to law, including but not limited to pursuant to section thirty-three hundred eighty-seven of the public health law.

6. The bar to prosecution described in subdivisions one and two of this section shall not apply to the prosecution of a class A-I felony under this article, and the affirmative defense described in subdivision four of this section shall not apply to the prosecution of a class A-I or A-II felony under this article.

§ 48. Subdivision 1 of section 260.20 of the penal law, as amended by chapter 362 of the laws of 1992, is amended as follows:

1. He knowingly permits a child less than eighteen years old to enter or remain in or upon a place, premises or establishment where sexual activity as defined by article one hundred thirty, two hundred thirty or two hundred sixty-three of this [~~chapter~~] **part** or activity involving controlled substances as defined by article two hundred twenty of this [~~chapter or involving marihuana as defined by article two hundred twenty-one of this chapter~~] **part** is maintained or conducted, and he knows or has reason to know that such activity is being maintained or conducted; or

§ 49. Section 89-h of the state finance law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 89-h. Medical [~~marihuana~~] **cannabis** trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "medical [~~marihuana~~] **cannabis** trust fund."

2. The medical [~~marihuana~~] **cannabis** trust fund shall consist of all moneys required to be deposited in the medical [~~marihuana~~] **cannabis** trust fund pursuant to the provisions of section four hundred ninety of the tax law.

3. The moneys in the medical [~~marihuana~~] **cannabis** trust fund shall be kept separate and shall not be commingled with any other moneys in the custody of the commissioner of taxation and finance and the state comptroller.

4. The moneys of the medical [~~marihuana~~] **cannabis** trust fund, following appropriation by the legislature, shall be allocated upon a certificate of approval of availability by the director of the budget as follows: (a) Twenty-two and five-tenths percent of the monies shall be transferred to the counties in New York state in which the medical [~~marihuana~~] **cannabis** was manufactured and allocated in proportion to the gross sales originating from medical [~~marihuana~~] **cannabis** manufactured in each such county; (b) twenty-two and five-tenths percent of the moneys shall be transferred to the counties in New York state in which the medical [~~marihuana~~] **cannabis** was dispensed and allocated in proportion to the gross sales occurring in each such county; (c) five percent of the monies shall be transferred to the office of [~~alcoholism and substance abuse services~~] **addiction services and supports**, which shall use that revenue for additional drug abuse prevention, counseling and treatment services; [~~and~~] (d) five percent of the revenue received by the department shall be transferred to the division of criminal justice services, which shall use that revenue for a program of discretionary grants to state and local law enforcement agencies that demonstrate a need relating to [~~title five-A of article thirty-three of the public health law~~] **article three of the cannabis law**; said grants could be used

for personnel costs of state and local law enforcement agencies[~~.~~]; 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.

§ 50. The state finance law is amended by adding a new section 99-ii 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" (the "fund").

2. Monies in the fund shall be kept separate from and shall not be commingled with any other monies in the custody of the comptroller or the commissioner of taxation and finance. Provided, however that any monies of the fund not required for immediate use may, at the discretion of the comptroller, in consultation with the director of the budget, be invested by the comptroller in obligations of the United States or the state. The proceeds of any such investment shall be retained by the fund as assets to be used for purposes of the fund.

3. Except as set forth in subdivisions two and four of this section, monies from the fund shall not be used to make payments for any purpose other than the purposes set forth in subdivisions two and four of this section.

4. The "New York state cannabis revenue fund" shall consist of monies received by the commissioner of taxation and finance pursuant to subdivisions (a) and (b) of section four hundred ninety-three of the tax law and all other monies credited or transferred thereto from any other fund or source. Such monies shall first be allocated to the "cannabis social equity fund" established pursuant to a chapter of the laws of two thousand twenty-one that established such fund, according to the following schedule: ten million dollars in fiscal year two thousand twenty-two--two thousand twenty-three; twenty million dollars in fiscal year two thousand twenty-three--two thousand twenty-four; thirty million dollars in fiscal year two thousand twenty-four--two thousand twenty-five; forty million dollars in fiscal year two thousand twenty-five--two thousand twenty-six; and fifty million dollars in each fiscal year thereafter. All remaining monies shall be expended for the following purposes: administration of the regulated cannabis program, data gathering, monitoring and reporting, the governor's traffic safety committee, implementation and administration of the initiatives and programs of the social and economic equity plan in the office of cannabis management, substance abuse, harm reduction and mental health treatment and prevention, public health education and intervention, research on cannabis uses and applications, program evaluation and improvements, and any other identified purpose recommended by the executive director of the office of cannabis management and approved by the director of the budget.

§ 51. Subdivision 2 of section 3371 of the public health law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

2. The prescription monitoring program registry may be accessed, under such terms and conditions as are established by the department for purposes of maintaining the security and confidentiality of the information contained in the registry, by:

(a) a practitioner, or a designee authorized by such practitioner pursuant to paragraph (b) of subdivision two of section thirty-three hundred forty-three-a [~~or section thirty-three hundred sixty-one~~] of this article, for the purposes of: (i) informing the practitioner that a

patient may be under treatment with a controlled substance by another practitioner; (ii) providing the practitioner with notifications of controlled substance activity as deemed relevant by the department, including but not limited to a notification made available on a monthly or other periodic basis through the registry of controlled substances activity pertaining to his or her patient; (iii) allowing the practitioner, through consultation of the prescription monitoring program registry, to review his or her patient's controlled substances history as required by section thirty-three hundred forty-three-a [~~or section thirty-three hundred sixty-one~~] of this article; and (iv) providing to his or her patient, or person authorized pursuant to paragraph (j) of subdivision one of this section, upon request, a copy of such patient's controlled substance history as is available to the practitioner through the prescription monitoring program registry; or

(b) a pharmacist, pharmacy intern or other designee authorized by the pharmacist pursuant to paragraph (b) of subdivision three of section thirty-three hundred forty-three-a of this article, for the purposes of: (i) consulting the prescription monitoring program registry to review the controlled substances history of an individual for whom one or more prescriptions for controlled substances or certifications for [~~marihuana~~] **cannabis** is presented to the pharmacist, pursuant to section thirty-three hundred forty-three-a of this article; and (ii) receiving from the department such notifications of controlled substance activity as are made available by the department; or

(c) an individual employed by a registered organization for the purpose of consulting the prescription monitoring program registry to review the controlled substances history of an individual for whom one or more certifications for [~~marihuana~~] **cannabis** is presented to that registered organization[~~, pursuant to section thirty-three hundred sixty-four of this article~~]. Unless otherwise authorized by this article, an individual employed by a registered organization will be provided access to the prescription monitoring program in the sole discretion of the commissioner.

§ 52. Subdivision 3 of section 853 of the general business law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

3. This article shall not apply to any sale, furnishing or possession which is for a lawful purpose under [~~title five-A of article thirty-three of the public health law~~] **the cannabis law**.

§ 53. Subdivision 5 of section 410.91 of the criminal procedure law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section

170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, criminal diversion of medical [~~marihuana~~] cannabis in the first degree as defined in section 179.10 or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance [~~or marihuana~~] cannabis felony offense as defined in article two hundred twenty or two hundred twenty-one.

§ 54. Subdivision 5 of section 410.91 of the criminal procedure law, as amended by section 8 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance or [~~marihuana~~] cannabis felony offense as defined in article two hundred twenty or two hundred twenty-one.

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

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

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

2. Upon receiving a motion under subdivision one of this section the court shall presume the movant satisfies the criteria in subdivision one of this section unless the party opposing the motion proves by clear and convincing evidence that the movant does not satisfy the criteria. If the movant satisfies the criteria in subdivision one of this section, the court shall grant the motion to vacate the sentence or to resentence because it is legally invalid. In exercising its discretion, the court

may consider, but shall not be limited to, the following: (a) the movant's criminal conviction history, including the type of crimes committed, the extent of injury to victims, the length of prior prison commitments, and the remoteness of the crimes. (b) the movant's disciplinary record and record of rehabilitation while incarcerated.

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

4. Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

5. A person who has completed his or her sentence for a conviction under the former article two hundred twenty-one of the penal law, whether by trial or open or negotiated plea, who would have been guilty of a lesser offense on and after the effective date of this section had this section been in effect at the time of his or her conviction, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction, in accordance with article two hundred twenty-one of the penal law: (a) dismissed because the prior conviction is now legally invalid and sealed in accordance with section 160.50 of this chapter; (b) redesignated (or "reclassified") as a violation and sealed in accordance with section 160.50 of this chapter; or (c) redesignated (reclassified) as a misdemeanor.

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

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

8. Any felony conviction that is vacated and resentenced under subdivision two or designated as a misdemeanor or violation under subdivision six of this section shall be considered a misdemeanor or violation for all purposes. Any misdemeanor conviction that is vacated and resentenced under subdivision two of this section or designated as a violation under subdivision six of this section shall be considered a violation for all purposes.

9. If the court that originally sentenced the movant is not available, the presiding judge shall designate another judge to rule on the petition or application.

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

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

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

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

§ 56. Transfer of employees. Notwithstanding any other provision of law, rule, or regulation to the contrary, upon the transfer of any functions from the department of health to the office of cannabis management for the regulation and control of medical cannabis pursuant to this act, employees performing those functions shall be transferred to the office of cannabis management pursuant to subdivision 2 of section 70 of the civil service law. Employees transferred pursuant to this section shall be transferred without further examination or qualification and shall retain their respective civil service classifications, status and collective bargaining unit designations and collective bargaining agreements. The civil service department may re-classify any person employed in a permanent, classified, competitive, or exempt class position immediately prior to being transferred to the office of cannabis management pursuant to subdivision 2 of section 70 of the civil service law, to align with the duties and responsibilities of their positions upon transfer. Employees whose positions are subsequently re-classified to align with the duties and responsibilities of their positions upon being transferred to the office of cannabis management shall hold such positions without further examination or qualification. Notwithstanding any other provision of this act, the names of those competitive permanent employees on promotion eligible lists in their former department shall be added and interfiled on a promotion eligible list in the new office, as the state civil service department deems appropriate.

§ 57. Transfer of records. All books, papers, and property of the department of health related to the administration of the medical marijuana program shall be deemed to be in the possession of the executive director of the office of cannabis management and shall continue to be maintained by the office of cannabis management.

§ 58. Continuity of authority. For the purpose of succession of all functions, powers, duties and obligations transferred and assigned to, devolved upon and assumed by it pursuant to this act, the office of cannabis management shall be deemed and held to constitute the continuation of the department of health's medical marijuana program.

§ 59. Completion of unfinished business. Any business or other matter undertaken or commenced by the department of health pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the office of cannabis management and pending on the effective date of this act, may be conducted and completed by the office of cannabis management.

§ 60. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the department of health

pertaining to medical marijuana and cannabinoid hemp, including the functions and powers transferred and assigned pursuant to this act, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the office of cannabis management until duly modified or abrogated by the board of the office of cannabis management.

§ 61. Terms occurring in laws, contracts and other documents. Whenever the department of health, or commissioner thereof, is referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties hereby transferred to and assigned to the office of cannabis management, such reference or designation shall be deemed to refer to the board of cannabis management, or the executive director thereof, as applicable.

§ 62. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by any provisions of this act.

§ 63. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the department of health, or the commissioner thereof, shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the executive director of the office of cannabis management. In all such actions and proceedings, the executive director of the office of cannabis management, upon application to the court, shall be substituted as a party.

§ 63-a. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 64. This act shall take effect immediately; provided, however that:

(i) the taxes imposed by section thirty-seven of this act shall apply on and after March 1, 2022 to: (1) the sale of adult-use cannabis products from a distributor to the person who sells adult-use cannabis at retail; and (2) the sale of adult-use cannabis products by a person who sells such products at retail;

(ii) the amendments to article 179 of the penal law made by section forty-six of this act shall not affect the repeal of such article and shall be deemed to be repealed therewith;

(iii) the amendments to section 89-h of the state finance law made by section forty-nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(iv) the amendments to section 221.00 of the penal law made by section fourteen of this act shall be subject to the expiration of such section when upon such date the provisions of section fifteen of this act shall take effect;

(v) the amendments to subdivision 2 of section 3371 of the public health law made by section fifty-one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(vi) the amendments to subdivision 3 of section 853 of the general business law made by section fifty-two of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith; and

(vii) the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section fifty-three of this act shall not affect the repeal of such section and shall be subject to the expiration and reversion of such subdivision when upon such date the provisions of section fifty-four of this act shall take effect.

PART I

Section 1. Subdivision (c) of section 1101 of the tax law, as added by chapter 93 of the laws of 1965, paragraphs 2, 3, 4 and 6 as amended by section 2 and paragraph 8 as added by section 3 of part AA of chapter 57 of the laws of 2010, and paragraph 5 as amended by chapter 575 of the laws of 1965, is amended to read as follows:

(c) When used in this article for the purposes of the tax imposed under subdivision (e) of section eleven hundred five **of this article**, the following terms shall mean:

(1) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(2) Occupancy. The use or possession, or the right to the use or possession, of any room in a hotel **or vacation rental**. "Right to the use or possession" includes the rights of a room remarketer as described in paragraph eight of this subdivision.

(3) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel **or vacation rental** under any lease, concession, permit, right of access, license to use or other agreement, or otherwise. "Right to use or possess" includes the rights of a room remarketer as described in paragraph eight of this subdivision.

(4) Operator. Any person operating a hotel **or vacation rental**. Such term shall include a room remarketer and such room remarketer shall be deemed to operate a hotel, or portion thereof, with respect to which such person has the rights of a room remarketer.

(5) Permanent resident. Any occupant of any room or rooms in a hotel **or vacation rental** for at least ninety consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(6) Rent. The consideration received for occupancy, including any service or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the operator or a room remarketer or another person on behalf of either of them.

(7) Room. Any room or rooms of any kind in any part or portion of a hotel **or vacation rental**, which is available for or let out for any purpose other than a place of assembly.

(8) Room remarketer. A person who reserves, arranges for, conveys, or furnishes occupancy, whether directly or indirectly, to an occupant for rent in **a hotel for** an amount determined by the room remarketer, directly or indirectly, whether pursuant to a written or other agreement. Such person's ability or authority to reserve, arrange for, convey, or furnish occupancy, directly or indirectly, and to determine rent therefor, shall be the "rights of a room remarketer". A room remarketer is not a permanent resident with respect to a room for which such person has the rights of a room remarketer.

(9) Vacation rental. A building or portion of it that is used for the lodging of guests. The term "vacation rental" includes a house, an

apartment, a condominium, a cooperative unit, a cabin, a cottage, or a bungalow, or one or more rooms therein, where sleeping accommodations are provided for the lodging of paying occupants, the typical occupants are transients or travelers, and the relationship between the operator and occupant is not that of a landlord and tenant. It is not necessary that meals are served. A building or portion of a building may qualify as a vacation rental whether or not amenities, including but not limited to daily housekeeping services, concierge services, or linen services, are provided.

(10) (i) Vacation rental marketplace provider. A person who, pursuant to an agreement with an operator, facilitates the occupancy of a vacation rental by such operator or operators. A person "facilitates the occupancy of a vacation rental" for purposes of this paragraph when the person meets both of the following conditions: (A) such person provides the forum in which, or by means of which, the sale of the occupancy takes place or the offer of such sale is accepted, including a shop, store, or booth, an internet website, catalog, or similar forum; and (B) such person or an affiliate of such person collects the rent paid by a customer to an operator for the occupancy of a vacation rental, or contracts with a third party to collect such rent.

(ii) For the purposes of this article, the term "vacation rental marketplace provider" shall not include a "room remarketer" as defined in paragraph eight of this subdivision. For purposes of this paragraph, persons are affiliated if one person has an ownership interest of more than five percent, whether direct or indirect, in another, or where an ownership interest of more than five percent, whether direct or indirect, is held in each of such persons by another person or by a group of other persons that are affiliated persons with respect to each other. The term "vacation rental marketplace provider" shall not include a "real estate broker" as licensed under article twelve-A of the real property law.

§ 2. Subdivision (a) of section 1104 of the tax law, as added by chapter 3 of the laws of 2004, is amended to read as follows:

(a) Imposition. In addition to any other fee or tax imposed by this article or any other law, on and after April first, two thousand five, there is hereby imposed within the territorial limits of a city with a population of a million or more and there shall be paid a unit fee on every occupancy of a unit in a hotel or vacation rental in such city at the rate of one dollar and fifty cents per unit per day, except that such unit fee shall not be imposed upon (1) occupancy by a permanent resident or (2) where the rent per unit is not more than at the rate of two dollars per day.

§ 3. Paragraph 1 of subdivision (e) of section 1105 of the tax law, as amended by section 1 of part Q of chapter 59 of the laws of 2012, is amended to read as follows:

(1) The rent for every occupancy of a room or rooms in a hotel and vacation rental in this state, except that the tax shall not be imposed upon (i) a permanent resident, or (ii) where the rent is not more than at the rate of two dollars per day.

§ 4. Subdivision 1 of section 1131 of the tax law, as amended by section 2 of part G of chapter 59 of the laws of 2019, is amended to read as follows:

(1) "Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; every operator of a hotel or vacation rental; every vacation rental

marketplace provider with respect to the rent for every occupancy of a vacation rental it facilitates as described in paragraph ten of subdivision (c) of section eleven hundred one of this article; and every marketplace provider with respect to sales of tangible personal property it facilitates as described in paragraph one of subdivision (e) of section eleven hundred one of this article. Said terms shall also include any officer, director or employee of a corporation or of a dissolved corporation, any employee of a partnership, any employee or manager of a limited liability company, or any employee of an individual proprietorship who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article, or has so acted; and any member of a partnership or limited liability company. Provided, however, that any person who is a vendor solely by reason of clause (D) or (E) of subparagraph (i) of paragraph [~~(8)~~] eight of subdivision (b) of section eleven hundred one of this article shall not be a "person required to collect any tax imposed by this article" until twenty days after the date by which such person is required to file a certificate of registration pursuant to section eleven hundred thirty-four of this part.

§ 5. Section 1132 of the tax law is amended by adding a new subdivision (m) to read as follows:

(m)(l) A vacation rental marketplace provider with respect to a sale for every occupancy of a vacation rental it facilitates: (A) shall have all the obligations and rights of a vendor under this article and article twenty-nine of this chapter and under any regulations adopted pursuant thereto, including, but not limited to, the duty to obtain a certificate of authority, to collect tax, file returns, remit tax, and the right to accept a certificate or other documentation from a customer substantiating an exemption or exclusion from tax, the right to receive the refund authorized by subdivision (e) of this section and the credit allowed by subdivision (f) of section eleven hundred thirty-seven of this part subject to the provisions of such subdivisions; and (B) shall keep such records and information and cooperate with the commissioner to ensure the proper collection and remittance of tax imposed, collected or required to be collected under this article and article twenty-nine of this chapter.

(2) An operator is relieved from the duty to collect tax in regard to a particular rent for the occupancy of a vacation rental subject to tax under subdivision (e) of section eleven hundred five of this article and shall not include the rent from such occupancy in its taxable sales for purposes of section eleven hundred thirty-six of this part if, in regard to such occupancy: (A) the operator of the vacation rental can show that such occupancy was facilitated by a vacation rental marketplace provider from whom such operator has received in good faith a properly completed certificate of collection in a form prescribed by the commissioner, certifying that the vacation rental marketplace provider is registered to collect sales tax and will collect sales tax on all taxable sales of occupancy of a vacation rental by the operator facilitated by the vacation rental marketplace provider, and with such other information as the commissioner may prescribe; and (B) any failure of the vacation rental marketplace provider to collect the proper amount of tax in regard to such sale was not the result of such operator providing the vacation rental marketplace provider with incorrect information. This provision shall be administered in a manner consistent with subparagraph (i) of paragraph one of subdivision (c) of this section as if a certificate of

collection were a resale or exemption certificate for purposes of such subparagraph, including with regard to the completeness of such certificate of collection and the timing of its acceptance by the operator. Provided that, with regard to any sales of occupancy of a vacation rental by an operator that are facilitated by a vacation rental marketplace provider who is affiliated with such operator within the meaning of paragraph ten of subdivision (c) of section eleven hundred one of this article, the operator shall be deemed liable as a person under a duty to act for such vacation rental marketplace provider for purposes of subdivision one of section eleven hundred thirty-one of this part.

(3) The commissioner may, at his or her discretion: (A) develop a standard provision, or approve a provision developed by a vacation rental marketplace provider, in which the vacation rental marketplace provider obligates itself to collect the tax on behalf of all operators for whom the vacation rental marketplace provider facilitates sales of occupancy of a vacation rental, with respect to all sales that it facilitates for such operators where the rental occurs in the state; and (B) provide by regulation or otherwise that the inclusion of such provision in the publicly-available agreement between the vacation rental marketplace provider and operator will have the same effect as an operator's acceptance of a certificate of collection from such vacation rental marketplace provider under paragraph two of this subdivision.

§ 6. Section 1133 of the tax law is amended by adding a new subdivision (g) to read as follows:

(g) A vacation rental marketplace provider is relieved of liability under this section for failure to collect the correct amount of tax to the extent that the vacation rental marketplace provider can show that the error was due to incorrect or insufficient information given to the vacation rental marketplace provider by the operator. Provided, however, this subdivision shall not apply if the operator and vacation rental marketplace provider are affiliated within the meaning of paragraph ten of subdivision (c) of section eleven hundred one of this article.

§ 7. Subdivision (a) of section 1134 of the tax law is amended by adding a new paragraph 6 to read as follows:

(6) An operator of a vacation rental, as defined in paragraph nine of subdivision (c) of section eleven hundred one of this article, is relieved of the requirement to register in paragraph one of this subdivision if its sales of occupancy are wholly facilitated by one or more vacation rental marketplace providers from whom the operator has received in good faith a certificate of collection that meets the requirements set forth in paragraph two of subdivision (m) of section eleven hundred thirty-two of this part.

§ 8. Paragraph 4 of subdivision (a) of section 1136 of the tax law, as amended by section 5 of part G of chapter 59 of the laws of 2019, is amended to read as follows:

(4) The return of a vendor of tangible personal property or services shall show such vendor's receipts from sales and the number of gallons of any motor fuel or diesel motor fuel sold and also the aggregate value of tangible personal property and services and number of gallons of such fuels sold by the vendor, the use of which is subject to tax under this article, and the amount of tax payable thereon pursuant to the provisions of section eleven hundred thirty-seven of this part. The return of a recipient of amusement charges shall show all such charges and the amount of tax thereon, and the return of an operator required to collect tax on rents shall show all rents received or charged and the amount of tax thereon. The return of a marketplace seller shall exclude

the receipts from a sale of tangible personal property facilitated by a marketplace provider if, in regard to such sale: (A) the marketplace seller has timely received in good faith a properly completed certificate of collection from the marketplace provider or the marketplace provider has included a provision approved by the commissioner in the publicly-available agreement between the marketplace provider and the marketplace seller as described in subdivision one of section eleven hundred thirty-two of this part, and (B) the information provided by the marketplace seller to the marketplace provider about such tangible personal property is accurate. **The return of an operator shall exclude the rent from occupancy of a vacation rental facilitated by a vacation rental marketplace provider if, in regard to such sale: (A) the vacation rental operator has timely received in good faith a properly completed certificate of collection from the vacation rental marketplace provider or the vacation rental marketplace provider has included a provision approved by the commissioner in the publicly-available agreement between the vacation rental marketplace provider and the operator as described in subdivision (m) of section eleven hundred thirty-two of this part, and (B) the information provided by the operator to the vacation rental marketplace provider about such rent and such occupancy is accurate.**

§ 9. Section 1142 of the tax law is amended by adding a new subdivision 16 to read as follows:

16. To publish a list on the department's website of vacation rental marketplace providers whose certificates of authority have been revoked and, if necessary to protect sales tax revenue, provide by regulation or otherwise that a vacation rental operator will be relieved of the requirement to register and the duty to collect tax on the rent for occupancy of a vacation rental facilitated by a vacation rental marketplace provider only if, in addition to the conditions prescribed by paragraph two of subdivision (m) of section eleven hundred thirty-two and paragraph six of subdivision (a) of section eleven hundred thirty-four of this part being met, such vacation rental marketplace provider is not on such list at the commencement of the quarterly period covered thereby.

§ 10. This act shall take effect immediately and shall apply to collections of rent by the operator or vacation rental marketplace provider on or after September 1, 2021.

PART J

Section 1. Sections 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009 of the racing, pari-mutuel, wagering and breeding law are REPEALED.

§ 2. Paragraph 1 of subdivision (f) of section 1105 of the tax law, as amended by chapter 32 of the laws of 2016, is amended to read as follows:

(1) Any admission charge where such admission charge is in excess of ten cents to or for the use of any place of amusement in the state, except charges for admission to [~~race tracks or~~] combative sports which charges are taxed under any other law of this state, or dramatic or musical arts performances, or live circus performances, or motion picture theaters, and except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or a lease or a

license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

§ 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 2 of part WW, subparagraph (i) as separately amended by section 5 of part Z of chapter 60 of the laws of 2016, is amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. **Notwithstanding the foregoing, a tax imposed by a city or county authorized under this subdivision shall not include the tax imposed on charges for admission to race tracks and simulcast facilities under subdivision (f) of section eleven hundred five of this chapter.** (i) Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and all sales of fuel sold for use in commercial aircraft and general aviation aircraft; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell elec-

tricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption.

§ 4. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as amended by section 3 of part WW of chapter 60 of the laws of 2016, is amended to read as follows:

(1) Or, one or more of the taxes described in subdivisions (b), (d), (e) and (f) of section eleven hundred five of this chapter, at the same uniform rate, including the transitional provisions in section eleven hundred six of this chapter covering such taxes, but not the taxes described in subdivisions (a) and (c) of section eleven hundred five of this chapter. Provided, further, that where the tax described in subdivision (b) of section eleven hundred five of this chapter is imposed, the compensating use taxes described in clauses (E), (G) and (H) of subdivision (a) of section eleven hundred ten of this chapter shall also be imposed. Provided, further, that where the taxes described in subdivision (b) of section eleven hundred five **of this chapter** are imposed, such taxes shall omit: (A) the provision for refund or credit contained in subdivision (d) of section eleven hundred nineteen of this chapter with respect to such taxes described in such subdivision (b) of section eleven hundred five unless such city or county elects to provide such provision or, if so elected, to repeal such provision; (B) the exemption provided in paragraph two of subdivision (ee) of section eleven hundred fifteen of this chapter unless such county or city elects otherwise; (C) the exemption provided in paragraph two of subdivision (ii) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise; and (D) the exemption provided in paragraph two of subdivision (kk) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise**; and provided further that where the tax described in subdivision (f) of such section eleven hundred five is imposed, such tax shall not apply to charges for admission to race tracks and simulcast facilities**.

§ 5. Notwithstanding any provisions of law to the contrary and notwithstanding the repeal of sections 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009 of the racing, pari-mutuel, wagering and breeding law by section one of this act, all provisions of such sections 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009, in respect to the imposition, exemption, assessment, payment, payment over, determination, collection, and credit or refund of tax, interest and penalty imposed thereunder, the filing of forms and returns, the preservation of records for the purposes of such tax, the disposition of revenues, and any civil and criminal penalties applicable to the violation of the provisions of such sections 227, 306 and 406, subparagraph (ii) of paragraph b of subdivision 4 of section 1008 and paragraph b of subdivision 5 of section 1009, shall continue in full force and effect with respect to all such tax accrued for periods prior to the effective date of this act in the same manner as they might if such provisions were not repealed.

§ 6. This act shall take effect September 1, 2021 and shall apply to charges for admissions to race tracks and simulcast facilities on and after such date.

PART K

Section 1. Subdivision (d) of section 1139 of the tax law, as amended by section 10 of subpart D of part VI of chapter 57 of the laws of 2009, is amended to read as follows:

(d) (1) Except in respect to an overpayment made on a return described in paragraph two of subdivision (a) of section eleven hundred thirty-six of this part [~~or on a return described in subdivision (c) of section eleven hundred thirty-seven-A of this part~~], interest shall be allowed and paid upon any refund made or credit allowed pursuant to this section except as otherwise provided in paragraph two **or three** of this subdivision or subdivision (e) of this section and except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to section eleven hundred forty-two of this part, or if no rate is set, at the rate of six percent per annum from the date when the tax, penalty or interest refunded or credited was paid to a date preceding the date of the refund check by not more than thirty days, provided, however, that for the purposes of this subdivision any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. In the case of a refund or credit claimed on a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), or claimed on an application for refund or credit, no interest shall be allowed or paid for any day before the date on which the return or application is filed. For purposes of this subdivision, a return or application for refund or credit shall not be treated as filed until it is filed in processible form. A return or application is in a processible form if it is filed on a permitted form, and contains the taxpayer's name, address and identifying number and the required signatures, and sufficient required information (whether on the return or application or on required attachments) to permit the mathematical verification of tax liability shown on the return or refund or credit claimed on the application.

(2) If a refund is made or a credit is allowed **in an amount less than one hundred thousand dollars (i)** within three months after the last date prescribed or permitted by extension of time for filing a return on which the refund or credit was claimed or within three months after the return was filed, whichever is later, or **(ii)** within three months after an application for refund or credit is filed on which that refund or credit was claimed, **or (iii) within three months after the last date prescribed or permitted by extension of time for filing an application for a refund or credit on which that refund or credit was claimed,** no interest will be allowed or paid on that refund or credit.

(3) If a refund is made or a credit is allowed in an amount of one hundred thousand dollars or more (i) within six months after the last date prescribed or permitted by extension of time for filing a return on which the refund or credit was claimed or within six months after the return was filed, whichever is later, or (ii) within six months after an application for refund or credit is filed on which that refund or credit was claimed, or (iii) within six months after the last date prescribed or permitted by extension of time for filing an application for refund or credit on which that refund or credit was claimed, no interest will be allowed or paid on that refund or credit.

§ 2. This act shall take effect immediately and shall apply to refund or credit claims submitted on or after March 1, 2022.

PART L

Section 1. Subparagraph (i) of the opening paragraph of section 1210 of the tax law is REPEALED and a new subparagraph (i) is added to read as follows:

(i) with respect to a city of one million or more and the following counties: (1) any such city having a population of one million or more is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes in any such city, at the rate of four and one-half percent;

(2) the following counties that impose taxes described in subdivision (a) of this section at the rate of three percent as authorized above in this paragraph are hereby further authorized and empowered to adopt and amend local laws, ordinances, or resolutions imposing such taxes at additional rates, in quarter percent increments, not to exceed the following rates, which rates are additional to the three percent rate authorized above in this paragraph:

(A) One percent - Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, Yates;

(B) One and one-quarter percent - Herkimer, Nassau;

(C) One and one-half percent - Allegany;

(D) One and three-quarters percent - Erie, Oneida.

Provided, however, that (I) the county of Rockland may impose additional rates of five-eighths percent and three-eighths percent, in lieu of imposing such additional rate in quarter percent increments; (II) the county of Ontario may impose additional rates of one-eighth percent and three-eighths percent, in lieu of imposing such additional rate in quarter percent increments; (III) three-quarters percent of the additional rate authorized to be imposed by the county of Nassau shall be subject to the limitation set forth in section twelve hundred sixty-two-e of this article.

§ 2. Subparagraph (ii) of the opening paragraph of section 1210 of the tax law is REPEALED and a new subparagraph (ii) is added to read as follows:

(ii) the following cities that impose taxes described in subdivision (a) of this section at the rate of one and one-half percent or higher as authorized above in this paragraph for such cities are hereby further authorized and empowered to adopt and amend local laws, ordinances, or resolutions imposing such taxes at additional rates, in quarter percent increments, not to exceed the following rates, which rates are additional to the one and one-half percent or higher rates authorized above in this paragraph:

(1) One percent - Mount Vernon; New Rochelle; Oswego; White Plains;

(2) One and one quarter percent - None;

(3) One and one-half percent - Yonkers.

§ 3. Subparagraphs (iii) and (iv) of the opening paragraph of section 1210 of the tax law are REPEALED and a new subparagraph (iii) is added to read as follows:

(iii) the maximum rate referred to in section twelve hundred twenty-four of this article shall be calculated without reference to the additional rates authorized for counties, other than the counties of Cayuga,

Cortland, Fulton, Madison, and Otsego, in clause two of subparagraph (i) and the cities in subparagraph (ii) of this paragraph.

§ 4. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(p) Notwithstanding any provision of this section or other law to the contrary, a county authorized to impose an additional rate or rates of sales and compensating use taxes by clause two of subparagraph (i) of the opening paragraph of this section, or a city, other than the city of Mount Vernon, authorized to impose an additional rate of such taxes by subparagraph (ii) of such opening paragraph, may adopt a local law, ordinance or resolution by a majority vote of its governing body imposing such rate or rates for a period not to exceed two years, and any such period must end on November thirtieth of an odd-numbered year. Notwithstanding the preceding sentence, the city of White Plains is authorized to exceed such two-year limitation to impose the tax authorized by subparagraph (ii) of such opening paragraph for the period commencing on September first, two thousand twenty-one and ending on November thirtieth, two thousand twenty-three. Any such local law, ordinance, or resolution shall also be subject to the provisions of subdivisions (d) and (e) of this section.

§ 5. Section 1210-E of the tax law is REPEALED.

§ 6. Subdivisions (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (z-1), (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh), (ii) and (jj) of section 1224 of the tax law are REPEALED.

§ 7. Section 1224 of the tax law is amended by adding three new subdivisions (d), (e), and (f) to read as follows:

(d) For purposes of this section, the term "prior right" shall mean the preferential right to impose any tax described in sections twelve hundred two and twelve hundred three, or twelve hundred ten and twelve hundred eleven, of this article and thereby to preempt such tax and to preclude another municipal corporation from imposing or continuing the imposition of such tax to the extent that such right is exercised. However, the right of preemption shall only apply within the territorial limits of the taxing jurisdiction having the right of preemption.

(e) Each of the following counties and cities shall have the sole right to impose the following additional rate of sales and compensating use taxes in excess of three percent that such county or city is authorized to impose pursuant to clause two of subparagraph (i) or subparagraph (ii) of the opening paragraph of section twelve hundred ten of this article. Such additional rates of tax shall not be subject to preemption.

(1) Counties:

(A) One percent - Albany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Genesee, Greene, Hamilton, Jefferson, Lewis, Livingston, Monroe, Montgomery, Niagara, Onondaga, Ontario, Orange, Orleans, Oswego, Putnam, Rensselaer, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, Yates;

(B) One and one-quarter percent - Herkimer, Nassau;

(C) One and one-half percent - Allegany;

(D) One and three-quarters percent - Erie, Oneida;

Provided, however that the county of Westchester shall have the sole right to impose the additional one percent rate of tax authorized by clause two of subparagraph (i) of the opening paragraph of section

twelve hundred ten of this article in the area of such county outside the cities of Mount Vernon, New Rochelle, White Plains and Yonkers.

(2) Cities:

(A) One-quarter of one percent - Rome;

(B) One-half of one percent - None;

(C) Three-quarters of one percent - None;

(D) One percent - Mount Vernon, New Rochelle, White Plains;

(E) One and one quarter percent - None;

(F) One and one-half percent - Yonkers.

(f) Each of the following cities is authorized to preempt the taxes imposed by the county in which it is located pursuant to the authority of section twelve hundred ten of this article, to the extent of one-half the maximum aggregate rate authorized under section twelve hundred ten of this article, including the additional rate that the county in which such city is located is authorized to impose: Auburn, in Cayuga county; Cortland, in Cortland county; Gloversville and Johnstown, in Fulton county; Oneida, in Madison county; Oneonta, in Otsego county. As of the date this subdivision takes effect, any such preemption by such a city in effect on such date shall continue in full force and effect until the effective date of a local law, ordinance, or resolution adopted or amended by the city to change such preemption. Any preemption by such a city pursuant to this subdivision that takes effect after the effective date of this subdivision shall be subject to the notice requirements in section twelve hundred twenty-three of this subpart and to the other requirements of this article.

§ 8. Section 1262-g of the tax law, as amended by section 2 of item DD of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-g. Oneida county allocation and distribution of net collections from the additional [~~one percent rate~~] rates of sales and compensating use taxes. Notwithstanding any contrary provision of law, (a) if the county of Oneida imposes sales and compensating use taxes at a rate which is one percent additional to the three percent rate authorized by section twelve hundred ten of this article, as authorized by such section, [~~(a)~~] (i) where a city in such county imposes tax pursuant to the authority of subdivision (a) of such section twelve hundred ten, such county shall allocate, distribute and pay in cash quarterly to such city one-half of the net collections attributable to such additional one percent rate of the county's taxes collected in such city's boundaries; [~~(b)~~] (ii) where a city in such county does not impose tax pursuant to the authority of such subdivision (a) of such section twelve hundred ten, such county shall allocate, distribute and pay in cash quarterly to such city not so imposing tax a portion of the net collections attributable to one-half of the county's additional one percent rate of tax calculated on the basis of the ratio which such city's population bears to the county's total population, such populations as determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of the county; [~~and (c)~~] provided, however, that such county shall dedicate the first one million five hundred thousand dollars of net collections attributable to such additional one percent rate of tax received by such county after the county receives in the aggregate eighteen million five hundred thousand dollars of net collections from such additional one percent rate of tax [~~imposed for any of the periods:~~

~~September first, two thousand twelve through August thirty-first, two thousand thirteen; September first, two thousand thirteen through August thirty-first, two thousand fourteen; and September first, two thousand fourteen through August thirty-first, two thousand fifteen; September first, two thousand fifteen through August thirty-first, two thousand sixteen; and September first, two thousand sixteen through August thirty-first, two thousand seventeen; September first, two thousand seventeen through August thirty-first, two thousand eighteen; September first, two thousand eighteen through August thirty-first, two thousand twenty; and September first, two thousand twenty through August thirty-first, two thousand twenty-three,~~] to an allocation on a per capita basis, utilizing figures from the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law, completed and published prior to the end of the year for which such allocation is made, which special census must include the entire area of such county, to be allocated and distributed among the towns of Oneida county by appropriation of its board of legislators; provided, further, that nothing herein shall require such board of legislators to make any such appropriation until it has been notified by any town by appropriate resolution and, in any case where there is a village wholly or partly located within a town, a resolution of every such village, embodying the agreement of such town and village or villages upon the amount of such appropriation to be distributed to such village or villages out of the allocation to the town or towns in which it is located.

(b) if the county of Oneida imposes sales and compensating use taxes at a rate which is one and three-quarters percent additional to the three percent rate authorized by section twelve hundred ten of this article, as authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections attributable to the additional three-quarters percent of such additional rate shall not be subject to any revenue distribution agreement entered into by the county and the cities in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.

§ 9. The opening paragraph of section 1262-r of the tax law, as added by chapter 37 of the laws of 2006, is amended to read as follows:

(1) Notwithstanding any contrary provision of law, if the county of Ontario imposes the additional one-eighth of one percent and the additional three-eighths of one percent rates of tax authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections from the such additional three-eighths of one percent rate of such taxes shall be set aside for county purposes and shall not be subject to any agreement entered into by the county and the cities in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part or this section.

(2) Notwithstanding the provisions of subdivision (c) of section twelve hundred sixty-two of this part to the contrary, if the cities of Canandaigua and Geneva in the county of Ontario do not impose sales and compensating use taxes pursuant to the authority of section twelve hundred ten of this article and such cities and county enter into an agreement pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part to be effective March first, two thousand six, such agreement may provide that:

§ 10. The tax law is amended by adding a new section 1262-v to read as follows:

§ 1262-v. Disposition of net collections from the additional rate of sales and compensating use tax in Clinton county. Notwithstanding any contrary provision of law, if the county of Clinton imposes the additional one percent rate of sales and compensating use taxes authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections from such additional rate shall be paid to the county and the county shall set aside such net collections and use them solely for county purposes. Such net collections shall not be subject to any revenue distribution agreement entered into by the county and the city in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.

§ 11. Section 1262-s of the tax law, as amended by section 3 of item U of subpart C of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

§ 1262-s. Disposition of net collections from the additional one-quarter of one percent rate of sales and compensating use taxes in the county of Herkimer. Notwithstanding any contrary provision of law, if the county of Herkimer imposes [~~the additional~~] **sales and compensating use tax at a rate that is one and** one-quarter [~~of one~~] percent [~~rate of sales and compensating use taxes~~] **additional to the three percent rate authorized by section twelve hundred ten of this article, as** authorized by [~~section twelve hundred ten-E~~] **clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten** of this article [~~for all or any portion of the period beginning December first, two thousand seven and ending November thirtieth, two thousand twenty-three~~], the county shall use all net collections [~~from such~~] **attributable to the** additional one-quarter [~~of one~~] percent **of such additional** rate to pay the county's expenses for the construction of additional correctional facilities. The net collections from [~~the~~] **such additional one-quarter percent of such** additional rate [~~imposed pursuant to section twelve hundred ten-E of this article~~] shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county. Any and all remaining net collections from such additional tax, after the expenses of such construction are paid, shall be deposited by the county of Herkimer in the general fund of such county for any county purpose.

§ 12. The tax law is amended by adding a new section 1265 to read as follows:

§ 1265. References to certain provisions authorizing additional rates or to expirations of a period. Notwithstanding any provision of law to the contrary: (a) any reference in any section of this chapter or other law, or in any local law, ordinance, or resolution adopted pursuant to the authority of this article, to net collections or revenues from a tax imposed by a county or city pursuant to the authority of a clause, or to a subclause of a clause, of subparagraph (i) or (ii) of the opening paragraph of section twelve hundred ten of this article repealed by section one or two of the chapter of the laws of two thousand twenty-one that added this section or pursuant to section twelve hundred ten-E of this article repealed by section five of such chapter shall be deemed to be a reference to net collections or revenues from a tax imposed by that county or city pursuant to the authority of the equivalent provision of clause two of subparagraph (i) or to subparagraph (ii) of the opening paragraph of such section twelve hundred ten as added by such section

one or two of such chapter of the laws of two thousand twenty-one; (b) any reference in this chapter or in any other law relating to the expiration of a provision concerning the distribution of revenue from the taxes authorized to be imposed by the opening paragraph of section twelve hundred ten of this article shall be disregarded, and such provision shall continue in effect unless later amended or repealed.

§ 13. This act shall take effect immediately.

PART M

Section 1. Subdivision (jj) of section 1115 of the tax law, as amended by section 1 of part V of chapter 59 of the laws of 2019, is amended to read as follows:

(jj) Tangible personal property or services otherwise taxable under this article sold to a related person shall not be subject to the taxes imposed by section eleven hundred five of this article or the compensating use tax imposed under section eleven hundred ten of this article where the purchaser can show that the following conditions have been met to the extent they are applicable: (1)(i) the vendor and the purchaser are referenced as either a "covered company" as described in section 243.2(f) or a "material entity" as described in section 243.2(l) of the Code of Federal Regulations in a resolution plan that has been submitted to an agency of the United States for the purpose of satisfying subparagraph 1 of paragraph (d) of section one hundred sixty-five of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") or any successor law, or (ii) the vendor and the purchaser are separate legal entities pursuant to a divestiture directed pursuant to subparagraph 5 of paragraph (d) of section one hundred sixty-five of such act or any successor law; (2) the sale would not have occurred between such related entities were it not for such resolution plan or divestiture; and (3) in acquiring such property or services, the vendor did not claim an exemption from the tax imposed by this state or another state based on the vendor's intent to resell such services or property. A person is related to another person for purposes of this subdivision if the person bears a relationship to such person described in section two hundred sixty-seven of the internal revenue code. The exemption provided by this subdivision shall not apply to sales made, services rendered, or uses occurring after June thirtieth, two thousand [~~twenty-one~~] twenty-four, except with respect to sales made, services rendered, or uses occurring pursuant to binding contracts entered into on or before such date; but in no case shall such exemption apply after June thirtieth, two thousand [~~twenty-four~~] twenty-seven.

§ 2. This act shall take effect immediately.

PART N

Section 1. Subparagraph (vi) of paragraph 1 of subdivision (a) of section 1134 of the tax law, as amended by section 160 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(vi) every person described in subparagraph (i), (ii), (iii), (iv) or (v) of this paragraph or every person who is a vendor solely by reason of clause (D), (E) or (F) of subparagraph (i) of paragraph eight of subdivision (b) of section eleven hundred one of this article who or which has had its certificate of authority revoked under paragraph four of this subdivision, shall file with the commissioner a certificate of registration, in a form prescribed by the commissioner, at least twenty

days prior to commencing business or opening a new place of business or such purchasing, selling or taking of possession or payment, whichever comes first. Every person who is a vendor solely by reason of clause (D) of subparagraph (i) of paragraph eight of subdivision (b) of section eleven hundred one of this article shall file with the commissioner a certificate of registration, in a form prescribed by such commissioner, within thirty days after the day on which the cumulative total number of occasions that such person came into the state to deliver property or services, for the immediately preceding four quarterly periods ending on the last day of February, May, August and November, exceeds twelve. Every person who is a vendor solely by reason of clause (E) of subparagraph (i) of paragraph eight of subdivision (b) of section eleven hundred one of this article shall file with the commissioner a certificate of registration, in a form prescribed by such commissioner, within thirty days after the day on which the cumulative total, for the immediately preceding four quarterly periods ending on the last day of February, May, August and November, of such person's gross receipts from sales of property delivered in this state exceeds [~~three~~] five hundred thousand dollars and number of such sales exceeds one hundred. Every person who is a vendor solely by reason of clause (F) of subparagraph (i) of paragraph eight of subdivision (b) of section eleven hundred one of this article shall file with the commissioner a certificate of registration, in a form prescribed by such commissioner, within thirty days after the day on which tangible personal property in which such person retains an ownership interest is brought into this state by the person to whom such property is sold, where the person to whom such property is sold becomes or is a resident or uses such property in any manner in carrying on in this state any employment, trade, business or profession. Information with respect to the notice requirements of a purchaser, transferee or assignee and such person's liability pursuant to the provisions of subdivision (c) of section eleven hundred forty-one of this chapter shall be included in or accompany the certificate of registration form furnished the applicant. The commissioner shall also include with such information furnished to each applicant general information about the tax imposed under this article including information on records to be kept, returns and payments, notification requirements and forms. Such certificate of registration may be amended in accordance with rules promulgated by the commissioner.

§ 2. This act shall take effect immediately.

PART O

Section 1. Subdivision (a) of section 1401 of the tax law, as amended by chapter 576 of the laws of 1994, is amended to read as follows:

(a) (1) "Person" means an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

(2) "Person" shall include any individual, corporation, partnership or limited liability company or an officer or employee of any corporation (including a dissolved corporation), or a member or employee of any partnership, or a member, manager or employee of a limited liability company, who as such officer, employee, manager or member is under a duty to act for such corporation, partnership, limited liability company

or individual proprietorship in complying with any requirement of this article, or has so acted.

§ 2. Subdivision (a) of section 1404 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(a) The real estate transfer tax **imposed pursuant to section fourteen hundred two of this article** shall be paid by the grantor **and such tax shall not be payable, directly or indirectly, by the grantee except as otherwise provided in this section**. If the grantor has failed to pay the tax imposed by this article at the time required by section fourteen hundred ten of this article or if the grantor is exempt from such tax, the grantee shall have the duty to pay the tax. Where the grantee has the duty to pay the tax because the grantor has failed to pay, such tax shall be the joint and several liability of the grantor and the grantee**; provided that in the event of such failure, the grantee shall have a cause of action against the grantor for recovery of payment of such tax by the grantee**.

§ 3. Subdivision (a) of section 1409 of the tax law, as amended by chapter 297 of the laws of 2019, is amended to read as follows:

(a) **(1)** A joint return shall be filed by both the grantor and the grantee for each conveyance whether or not a tax is due thereon other than a conveyance of an easement or license to a public utility as defined in subdivision two of section one hundred eighty-six-a of this chapter or to a public utility which is a provider of telecommunication services as defined in subdivision one of section one hundred eighty-six-e of this chapter, where the consideration is two dollars or less and is clearly stated as actual consideration in the instrument of conveyance.

(2) When the grantor or grantee of a deed for **a building used as** residential real property containing [~~one- to four-~~] **up to four** family dwelling units is a limited liability company, the joint return shall not be accepted for filing unless it is accompanied by a document which identifies the names and business addresses of all members, managers, and any other authorized persons, if any, of such limited liability company and the names and business addresses or, if none, the business addresses of all shareholders, directors, officers, members, managers and partners of any limited liability company or other business entity that are to be the members, managers or authorized persons, if any, of such limited liability company. The identification of such names and addresses shall not be deemed an unwarranted invasion of personal privacy pursuant to article six of the public officers law. If any such member, manager or authorized person of the limited liability company is itself a limited liability company or other business entity **other than a publicly traded entity, a REIT, a UPREIT, or a mutual fund**, the names and addresses of the shareholders, directors, officers, members, managers and partners of the limited liability company or other business entity shall also be disclosed until full disclosure of ultimate ownership by natural persons is achieved. For purposes of this subdivision, the terms "members", "managers", "authorized person", "limited liability company" and "other business entity" shall have the same meaning as those terms are defined in section one hundred two of the limited liability company law.

(3) The return shall be filed with the recording officer before the instrument effecting the conveyance may be recorded. However, if the tax is paid to the commissioner pursuant to section fourteen hundred ten of this article, the return shall be filed with such commissioner at the time the tax is paid. In that instance, a receipt evidencing the filing

of the return and the payment of tax shall be filed with the recording officer before the instrument effecting the conveyance may be recorded. The recording officer shall handle such receipt in the same manner as a return filed with the recording officer.

§ 4. Subdivision (h) of section 1418 of the tax law, as added by section 7 of part X of chapter 56 of the laws of 2010 and as further amended by subdivision (c) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

(h) Notwithstanding the provisions of subdivision (a) of this section, the commissioner may furnish information relating to real property transfers obtained or derived from returns filed pursuant to this article in relation to the real estate transfer tax, to the extent that such information is also required to be reported to the commissioner by section three hundred thirty-three of the real property law and section five hundred seventy-four of the real property tax law and the rules adopted thereunder, provided such information was collected through a combined process established pursuant to an agreement entered into with the commissioner pursuant to paragraph viii of subdivision one-e of section three hundred thirty-three of the real property law. The commissioner may redisclose such information to the extent authorized by section five hundred seventy-four of the real property tax law. **The commissioner may also disclose any information reported pursuant to paragraph two of subdivision (a) of section fourteen hundred nine of this article.**

§ 5. This act shall take effect immediately; provided however that sections one and two of this act shall take effect July 1, 2021, and shall apply to conveyances occurring on or after such date other than conveyances that are made pursuant to binding written contracts entered into on or before April 1, 2021, provided that the date of execution of such contract is confirmed by independent evidence, such as the recording of the contract, payment of a deposit or other facts and circumstances as determined by the commissioner of taxation and finance.

PART P

Section 1. Section 480-a of the tax law is amended by adding a new subdivision 6 to read as follows:

6. (a) No retail dealer who has its retail dealer registration cancelled, suspended or revoked pursuant to this section or has been forbidden from selling cigarettes or tobacco products pursuant to paragraph (j) of subdivision one of section four hundred eighty of this article shall possess cigarettes or tobacco products in any place of business, cart, stand, truck or other merchandising device in this state beginning on the tenth day after such cancellation, suspension, revocation, or forbiddance and continuing for the duration of the same; provided however, such retail dealer shall not be prohibited before the tenth day after such cancellation, suspension, revocation, or forbiddance from selling or transferring its inventory of lawfully stamped cigarettes or tobacco products on which the taxes imposed by this article have been assumed or paid to a properly registered retail dealer whose registration is not cancelled, suspended, or revoked or who has not been forbidden from selling cigarettes or tobacco products.

(b) No retail dealer shall possess cigarettes or tobacco products in any place of business, cart, stand, truck or other merchandising device in this state unless it has obtained a valid retail dealer registration from the commissioner.

(c) The possession of cigarettes or tobacco products in violation of paragraph (a) or (b) of this subdivision shall be presumptive evidence that such cigarettes or tobacco products are being sold in violation of this section and section four hundred eighty of this article and, in addition to any other applicable penalties, shall be subject to the penalties authorized by subdivision three of this section.

§ 2. Any retail dealer who, prior to the effective date of this act, had its retail dealer registration cancelled, suspended, or revoked pursuant to section four hundred eighty-a of the tax law or was forbidden from selling cigarettes or tobacco products pursuant to paragraph (j) of subdivision one of section four hundred eighty of the tax law and such cancellation, suspension, revocation, or forbiddance remains in effect as of the effective date of this act, shall be prohibited from possessing cigarettes and tobacco products beginning on the tenth day after the effective date of this act and continuing for as long as such cancellation, suspension, revocation, or forbiddance shall remain in effect; provided however, such retail dealer shall not be prohibited before the tenth day after the effective date of this act from selling or transferring its inventory of lawfully stamped cigarettes or tobacco products on which the taxes imposed by this article have been assumed or paid to a properly registered retail dealer whose registration is not cancelled, suspended, or revoked or who has not been forbidden from selling cigarettes or tobacco products.

§ 3. This act shall take effect immediately.

PART Q

Section 1. Subdivision 1 of section 429 of the tax law, as amended by chapter 433 of the laws of 1978, is amended to read as follows:

1. Every distributor, noncommercial importer or other person shall, on or before the twentieth day of each month, file with the department of taxation and finance a return, on forms to be prescribed by the [~~tax commission~~] **commissioner** and furnished by such department, stating separately the number of gallons, or lesser quantity, of beers, and the number of liters, or lesser quantity, of wines and liquors sold or used by such distributor, noncommercial importer or other person in this state during the preceding calendar month, except that the [~~tax commission~~] **commissioner** may, if [~~it~~] **he or she** deems it necessary [~~in order~~] to [~~insure~~] **facilitate** the **efficient reporting and** payment of the tax imposed by this article, require returns to be made at such times and covering such periods as [~~it~~] **he or she** may deem necessary. Such return shall contain such further information as the [~~tax commission~~] **commissioner** shall require. The fact that the name of the distributor, noncommercial importer or other person is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by such distributor, noncommercial importer or other person.

§ 2. Section 505 of the tax law, as amended by section 2 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

§ 505. Returns. Every carrier subject to this article and every carrier to whom a certificate of registration was issued shall file on or before the last day of each month a return for the preceding calendar month where a carrier's total tax liability under this article for the preceding calendar year exceeded [~~four~~] **twelve** thousand dollars. Where a carrier's total tax liability under this article for the preceding calendar year did not exceed [~~four~~] **twelve** thousand dollars or where a carrier was not subject to such tax in the preceding calendar year,

returns shall be filed quarterly, on or before the last day of the calendar month following each of the calendar quarters: January through March, April through June, July through September and October through December. Provided, however, if the commissioner consents thereto in writing, any carrier may file a return on or before the thirtieth day after the close of any different period, if the carrier's books are regularly kept on a periodic basis other than a calendar month or quarter. The commissioner may permit the filing of returns on an annual basis, provided the carrier was subject to the tax under this article during the entire preceding calendar year and the carrier's total tax liability under this article for such year did not exceed [~~two hundred fifty~~] **twelve hundred** dollars. Such annual returns shall be filed on or before January thirty-first of the succeeding calendar year. Returns shall be filed with the commissioner on forms to be furnished by such commissioner for such purpose and shall contain such data, information or matter as the commissioner may require to be included therein. The fact that a carrier's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by such carrier. The commissioner may grant a reasonable extension of time for filing returns whenever good cause exists and may waive the filing of returns if a carrier is not subject to the tax imposed by this article for the period covered by the return. Every return shall have annexed thereto a certification to the effect that the statements contained therein are true.

§ 3. This act shall take effect immediately; provided, however, that section two of this act shall apply to tax returns required to be filed on or after January 1, 2022.

PART R

Section 1. Section 1280 of the tax law is amended by adding a new subdivision (v) to read as follows:

(v) "Technology service provider" or "TSP" means a person that acts by employment, contract or otherwise on behalf of one or more taxicab owners or HAIL vehicle owners to collect the trip record for a taxicab trip or HAIL vehicle trip.

§ 2. Subdivision (b) of section 1283 of the tax law, as amended by chapter 9 of the laws of 2012, is amended to read as follows:

(b) **(1)** If the taxicab owner has designated an agent, then the agent shall be jointly liable with the taxicab owner for the tax on trips occurring during the period that such designation is in effect. Even if the TLC has specified that the taxicab owner's agent cannot operate as an agent, that agent shall be jointly liable with the taxicab owner if the agent has acted for the taxicab owner. During the period that a taxicab owner's designation of an agent is in effect, the agent shall file the returns required by this article and pay any tax due with such return, but the taxicab owner shall not be relieved of liability for tax, penalty or interest due under this article, or for the filing of returns required to be filed, unless the agent has timely filed accurate returns and timely paid the tax required to be paid under this article. If a taxicab owner has designated an agent, then the agent must perform any act this article requires the taxicab owner to perform, but the failure of such agent to perform any such act shall not relieve the taxicab owner from the obligation to perform such act or from any liability that may arise from failure to perform the act.

(2) (A) Notwithstanding the foregoing, a TSP that collects the trip record and the trip fare on behalf of a taxicab owner or a HAIL vehicle owner shall be jointly liable with the taxicab owner or HAIL vehicle owner for the tax due on such trips. For any period that the TSP collects trip records on behalf of a taxicab owner or HAIL vehicle owner, the TSP shall file returns reporting all trip records and, after retaining any fees to which it is entitled pursuant to a contract with such taxicab owner or HAIL vehicle owner, shall remit the taxes due on all fares collected by the TSP.

(B) The TSP, after retaining the fees described in subparagraph (A) of this paragraph, shall also remit the taxes due on any taxicab trip or HAIL vehicle trip for which it maintained the trip record but did not collect the fare, from any fares it collected on behalf of any such taxicab owner or HAIL vehicle owner, before it releases any proceeds to the taxicab owner or HAIL vehicle owner. If the TSP fails to comply with the requirements of this subparagraph, such TSP shall be liable for the taxes due on such trips up to the amount it released to the taxicab owner or HAIL vehicle owner, or any person on behalf of such taxicab owner or HAIL vehicle owner. However, the taxicab owner, HAIL vehicle owner or their agents shall not be relieved of any liability for the tax, penalty or interest due under this article, or for filing of returns required to be filed, unless the TSP has timely filed accurate returns and timely paid the tax required to be paid under this article.

§ 3. Subdivision (a) of section 1299-B of the tax law, as added by section 2 of part NNN of chapter 59 of the laws of 2018, is amended to read as follows:

(a) Notwithstanding any provision of law to the contrary, any person that dispatches a motor vehicle by any means that provides transportation that is subject to a surcharge imposed by this article, including transportation network companies as defined in article forty-four-B of the vehicle and traffic law, shall be liable for the surcharge imposed by this article, except that in the case of taxicab trips and HAIL vehicle trips that are also subject to tax pursuant to article twenty-nine-A of this chapter[~~, only the taxicab owner or HAIL base liable for that tax shall be the person liable for the surcharge imposed by this article~~]: (1) the TSP shall be liable for the surcharge imposed by this article for all trips for which the TSP collected the trip record and the surcharge, and shall be responsible for filing returns; and, after retaining any fees to which it is entitled pursuant to a contract with such taxicab owner or HAIL vehicle owner, shall remit the surcharges on such trips to the department.

(2) the TSP, after retaining the fees described in paragraph one of this subdivision, shall also remit the surcharges due on any taxicab trip or HAIL vehicle trip for which it maintained the trip record but did not collect the fare, from any fares it collected on behalf of any such taxicab owner or HAIL vehicle owner, before it releases any proceeds to the taxicab owner or HAIL vehicle owner. Whenever the TSP fails to comply with the requirements of the preceding sentence, the TSP shall be liable for the surcharges due on such trips up to the amount it released to the taxicab owner or HAIL vehicle owner, or any person on behalf of such taxicab owner or HAIL vehicle owner. However, the taxicab owner or HAIL base shall be jointly and severally liable with the TSP for such surcharges. For purposes of this section, the terms "taxicab trips," "HAIL vehicle trips," "taxicab owner," [~~and~~] "HAIL base", and "TSP" shall have the same meaning as they do in section twelve hundred eighty of this chapter.

§ 4. Section 1299-F of the tax law is amended by adding a new subdivision (e) to read as follows:

(e) Notwithstanding the provisions of subdivision (a) of this section, the commissioner may, in his or her discretion, permit the proper officer of the taxi and limousine commission of the city of New York (TLC) or the duly authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or such officer's authorized representative an abstract of any such return or supply such person with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article; but such permission shall be granted or such information furnished only if the TLC shall have furnished the commissioner with all information requested by the commissioner pursuant to this article and shall have permitted the commissioner or the commissioner's authorized representative to make any inspection of any records or reports concerning for-hire transportation trips subject to the surcharge imposed by this article, and any persons required to collect such surcharge, filed with or possessed by the TLC that the commissioner may have requested from the TLC. Provided, further, that the commissioner may disclose to the TLC whether or not a person liable for the surcharge imposed by this article has paid all of the surcharges due under this article as of any given date.

§ 5. This act shall take effect immediately and shall apply to trips occurring on or after July 1, 2021.

PART S

Section 1. Paragraph 1 of subdivision (g) of section 32 of the tax law, as added by section 2 of part VV of chapter 59 of the laws of 2009, is amended to read as follows:

(1) If a tax return preparer or facilitator is required to register or re-register with the department pursuant to paragraph one or three of subdivision (b) of this section, as applicable, and fails to do so in accordance with the terms of this section, then the tax return preparer [~~of~~] **or** facilitator must pay a penalty of [~~two~~] **five** hundred [~~fifty~~] dollars **for the first day of non-compliance and two hundred dollars for each subsequent day of non-compliance thereafter. The maximum penalty that may be imposed under this paragraph on any tax return preparer or facilitator during any calendar year must not exceed ten thousand dollars**. [~~Provided, however, that if the tax return preparer or facilitator complies with the registration requirements of this section within ninety calendar days after notification of assessment of this penalty is sent by the department, then this penalty must be abated. If the tax return preparer or facilitator continues to fail to register or re-register after the ninety calendar day period, the tax return preparer or facilitator must pay an additional penalty of five hundred dollars if the failure is for not more than one month, with an additional five hundred dollars for each additional month or fraction thereof during which the failure continues. Once the ninety calendar days specified in this paragraph have expired, the~~] **The** penalty can be waived only for good cause shown by the tax return preparer or facilitator.

§ 2. Paragraph 2 of subdivision (g) of section 32 of the tax law, as added by section 2 of part VV of chapter 59 of the laws of 2009, is amended to read as follows:

(2) If a commercial tax return preparer fails to pay the fee as required in paragraph one of subdivision (c) of this section, for a

calendar year, then the commercial tax return preparer must pay a penalty of fifty dollars for each return the commercial tax return preparer has filed with the department in that calendar year. [~~Provided however, that if the commercial tax return preparer complies with the payment requirements of paragraph one of subdivision (c) of this section, within ninety calendar days after notification of the assessment of this penalty is sent by the department, then this penalty must be abated.~~] The maximum penalty that may be imposed under this paragraph on any commercial tax return preparer during any calendar year must not exceed [~~five~~] ten thousand dollars. [~~Once the ninety calendar days specified in this paragraph have expired, the~~] The penalty can be waived only for good cause shown by the commercial tax return preparer.

§ 3. Section 32 of the tax law is amended by adding a new subdivision (h) to read as follows:

(h) (1) Tax return preparers and facilitators must prominently and conspicuously display a copy of their registration certificate issued pursuant to this section, for the current registration period, at their place of business and at any other location where they provide tax return preparation and/or facilitation services, in an area where taxpayers using their services are able to see and review such registration certificate.

(2) Tax return preparers and facilitators must prominently and conspicuously display at their place of business and at any other location where they provide tax return preparation and/or facilitation services the following documents:

(A) a current price list, in at least fourteen-point type, that includes, but is not limited to, a list of all services offered by the tax return preparer and/or facilitator; the minimum fee charged for each service, including the fee charged for each type of federal or New York state tax return to be prepared and facilitation service to be provided; and a list of each factor that may increase a stated fee and the specific additional fees or range of possible additional fees when each factor applies; and

(B) a copy of the most recent Consumer Bill of Rights Regarding Tax Preparers published by the department pursuant to section three hundred seventy-two of the general business law.

(3) A tax return preparer or facilitator who fails to comply with any of the requirements of this subdivision must pay a penalty of five hundred dollars for the first day of non-compliance and two hundred dollars for each subsequent day of non-compliance thereafter. The maximum penalty that may be imposed under this subdivision on any tax return preparer or facilitator during any calendar year must not exceed ten thousand dollars. The penalty can be waived only for good cause shown by the tax return preparer or facilitator.

§ 4. Subdivision (g) of section 32 of the tax law, as added by section 2 of part VV of chapter 59 of the laws of 2009, is relettered subdivision (i).

§ 5. This act shall take effect immediately; provided, however, that paragraph (3) of subdivision (h) of section 32 of the tax law, as added by section three of this act, shall take effect January 1, 2022.

PART T

Section 1. Section 2016 of the tax law, as amended by chapter 401 of the laws of 1987, is amended to read as follows:

§ 2016. Judicial review. A decision of the tax appeals tribunal, which is not subject to any further administrative review, shall finally and irrevocably decide all the issues which were raised in proceedings before the division of tax appeals upon which such decision is based unless, within four months after notice of such decision is served by the tax appeals tribunal upon every party to the proceeding before such tribunal by certified mail or personal service, the petitioner who commenced the proceeding [~~petitions~~] **or the commissioner, or both, petition** for judicial review in the manner provided by article seventy-eight of the civil practice law and rules, except as otherwise provided in this [~~section~~] **chapter**. Such service by certified mail shall be complete upon deposit of such notice, enclosed in a post-paid properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States postal service. [~~The~~] **Where the** petitioner **who commenced the proceeding before the division of tax appeals files a petition for judicial review, the petition** shall designate the tax appeals tribunal and the commissioner [~~of taxation and finance~~] as respondents in the proceeding for judicial review. **Where the commissioner files a petition for judicial review, the petition shall designate the tax appeals tribunal and the petitioner who commenced the proceeding before the division of tax appeals as respondents in the proceeding for judicial review.** The tax appeals tribunal shall not participate in proceedings for judicial review of its decisions and such proceedings for judicial review shall be commenced in the appellate division of the supreme court, third department. In all other respects the provisions and standards of article seventy-eight of the civil practice law and rules shall apply. The record to be reviewed in such proceedings for judicial review shall include the determination of the administrative law judge, the decision of the tax appeals tribunal, the stenographic transcript of the hearing before the administrative law judge, the transcript of any oral proceedings before the tax appeals tribunal and any exhibit or document submitted into evidence at any proceeding in the division of tax appeals upon which such decision is based.

§ 2. This act shall take effect immediately and shall apply to decisions and orders issued by the tax appeals tribunal on or after such date.

PART U

Section 1. Paragraphs i and v of subdivision 1-e of section 333 of the real property law, as amended by section 5 of part X of chapter 56 of the laws of 2010 and as further amended by subdivision (d) of section 1 of part W of chapter 56 of the laws of 2010, are amended to read as follows:

i. A recording officer shall not record or accept for [~~record~~] **recording** any conveyance of real property affecting land in New York state unless accompanied by **one of the following:**

(1) a receipt issued by the commissioner of taxation and finance pursuant to subdivision (c) of section fourteen hundred twenty-three of the tax law; or

(2) a transfer report form prescribed by the commissioner of taxation and finance [~~or in lieu thereof, confirmation from the commissioner that the required data has been reported to it pursuant to paragraph vii of this subdivision~~], and the fee prescribed pursuant to subdivision three of this section.

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

(2) Subject to the provisions of section fourteen hundred twenty-three of the tax law, such form shall contain an affirmation as to the accuracy of the contents made both by the transferor or transferors and by the transferee or transferees. Provided, however, that if the conveyance of real property occurs as a result of a taking by eminent domain, tax foreclosure, or other involuntary proceeding such affirmation may be made only by either the condemnor, tax district, or other party to whom the property has been conveyed, or by that party's attorney. The affirmations required by this paragraph shall be made in the form and manner prescribed by the commissioner, provided that notwithstanding any provision of law to the contrary, affirmants may be allowed, but shall not be required, to sign such affirmations electronically.

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

§ 3. Subdivision 3 of section 333 of the real property law, as amended by section 2 of part JJ of chapter 56 of the laws of 2009 and as further amended by subdivision (d) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

3. [~~The~~] (i) When a recording officer [~~of every county and the city of New York~~] is presented with a conveyance for recording that is accompanied by a receipt issued by the commissioner of taxation and finance pursuant to subdivision (c) of section fourteen hundred twenty-three of the tax law, such recording officer shall be relieved of the responsibility to collect the fee described by this subdivision. He or she shall nonetheless be entitled to the portion of such fee that he or she would otherwise have deducted pursuant to this subdivision, as provided by subdivision (b) of section fourteen hundred twenty-three of the tax law.

(ii) When a recording officer is presented with a conveyance for recording that is not accompanied by such a receipt, he or she shall impose a fee of two hundred fifty dollars, or in the case of a transfer involving qualifying residential or farm property as defined by paragraph iv of subdivision one-e of this section, a fee of one hundred twenty-five dollars, for every real property transfer reporting form submitted for recording as required under subparagraph two of paragraph i of subdivision one-e of this section. In the city of New York, the recording officer shall impose a fee of one hundred dollars for each real property transfer tax form filed in accordance with chapter twenty-one of title eleven of the administrative code of the city of New York, except where a real property transfer reporting form is also submitted for recording for the transfer as required under subparagraph two of paragraph i of subdivision one-e of this section. The recording officer shall deduct nine dollars from such fee and remit the remainder of the revenue collected to the commissioner of taxation and finance every month for deposit into the general fund. The amount duly deducted by the recording officer shall be retained by the county or by the city of New York.

§ 4. Subsection (d) of section 663 of the tax law, as amended by section 1 of part P of chapter 686 of the laws of 2003, is amended to read as follows:

(d) A recording officer shall not record or accept for [~~record~~] recording any deed unless one of the following conditions is satisfied:

(1) it is accompanied by a receipt issued by the commissioner indicating that the estimated tax required by this section has been paid to the commissioner either electronically or as otherwise prescribed by him or her;

(2) it is accompanied by a form prescribed by the commissioner pursuant to subsection (b) of this section and the payment of any estimated tax shown as payable on such form[~~,~~]; or [~~unless~~]

(3) such receipt or form includes a certification by the transferor that this section is inapplicable to the sale or transfer.

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

(c) [~~Every~~] 1. When a recording officer designated to act as such agent is presented with a conveyance for recording that is accompanied by a receipt issued by the commissioner pursuant to subdivision (c) of section fourteen hundred twenty-three of this article, such recording officer shall be relieved of the responsibility to collect the real estate transfer tax thereon. He or she shall nonetheless be entitled to the portion of such tax that he or she would otherwise have retained pursuant to this subdivision, as provided by subdivision (b) of section fourteen hundred twenty-three of the tax law.

2. When a recording officer is presented with a conveyance for recording that is not accompanied by a receipt described in paragraph one of this subdivision, he or she shall collect the applicable real estate transfer tax and shall retain, from the real estate transfer tax which he or she collects, the sum of one dollar for each of the first five thousand conveyances accepted for recording and for which he or she has issued a documentary stamp or metering machine stamp or upon which instrument effecting the conveyance he or she has noted payment of the tax or that no tax is due, pursuant to any other method for payment of the tax provided for in the regulations of the commissioner of taxation and finance, during each annual period commencing on the first day of August and ending on the next succeeding thirty-first day of July and seventy-five cents for each conveyance in excess of five thousand accepted for recording and for which he or she has issued such a stamp or upon which instrument effecting the conveyance he or she has noted payment of the tax or that no tax is due, pursuant to such other method, during such annual period. Such fee shall be payable even though the stamp issued or such notation shows that no tax is due. Such a fee paid to the register of the city of New York shall belong to the city of New York and such a fee paid to a recording officer of a county outside such city shall belong to such officer's county. With respect to any other agents designated to act pursuant to subdivision (a) of this section, the commissioner of taxation and finance shall have the power to provide, at his or her discretion, for payment of a fee to such agent, in such manner and amount and subject to such limitations as he or she may determine, but any such fee for any annual period shall not be greater than the sum of one dollar for each of the first five thousand conveyances for which such agent has issued a documentary stamp or metering machine stamp or upon which instrument effecting the conveyance he or she has noted payment of the tax or that no tax is due, pursuant to any other method for payment of the tax provided for in the regu-

lations of the commissioner of taxation and finance, during such annual period and seventy-five cents for each conveyance in excess of five thousand for which such agent has issued such a stamp or upon which instrument effecting the conveyance such agent has noted payment of the tax or that no tax is due, pursuant to such other method, during such annual period.

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

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

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

(b) A recording officer shall not record an instrument effecting a conveyance unless **one of the following conditions is satisfied:**

(1) the instrument is accompanied by a receipt issued by the commissioner pursuant to subdivision (c) of section fourteen hundred twenty-three of this article; or

(2) the return required by section fourteen hundred nine of this article has been filed and the real estate transfer tax due, if any, shall have been paid as provided in this section.

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

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

(1) The two forms that may be so combined are the real estate transfer tax return required by section fourteen hundred nine of this article, and the real property transfer report required by subdivision one-e of section three hundred thirty-three of the real property law. However, the commissioner shall continue to maintain both such return and such report as separate forms, so that a party who prefers not to file a consolidated real property transfer form with the commissioner electronically shall have the option of filing both such return and such report with the recording officer, as otherwise provided by law. Under no circumstances shall a consolidated real property transfer form be filed with, or accepted by, the recording officer.

(2) Notwithstanding the provisions of section fourteen hundred eighteen of this article, any information appearing on a consolidated real property transfer form that is required to be included on the real property transfer report required by subdivision one-e of section three hundred thirty-three of the real property law shall be subject to public disclosure.

(3) When a consolidated real property transfer form is electronically submitted to the department by either the grantor or grantee or a duly authorized agent thereof, the act of submitting such form shall be deemed to be the signing of the return as required by paragraph (v) of subdivision one-e of the real property law or subdivision (b) of section fourteen hundred nine of this article, and the requirement that all the grantors and grantees shall sign the return shall not apply. However, the fact that a grantor or grantee has not electronically submitted the form shall not relieve that grantor or grantee of any liability for the tax imposed by this article.

(b) When a consolidated real property transfer form is filed with the commissioner electronically pursuant to this section, the real estate transfer tax imposed under this article, and the fee that would otherwise be retained by the recording officer pursuant to subdivision three of section three hundred thirty-three of the real property law, shall be paid to the commissioner therewith. The commissioner shall retain on behalf of the recording officer the portion of such tax that would otherwise have been retained by the recording officer pursuant to subdivision (c) of section fourteen hundred seven of this article, and the portion of such fee that would otherwise have been retained by the recording officer pursuant to subdivision three of section three hundred thirty-three of the real property law. The moneys so retained by the commissioner on behalf of the recording officer, hereinafter referred to as the recording officer's fees, shall be deposited daily with such responsible banks, banking houses, or trust companies as may be designated by the state comptroller. Of the recording officer's fees so deposited, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements of such fees collected or received pursuant to this section, out of which the comptroller shall pay any refunds or reimbursements of such fees to which persons shall be entitled under the provisions of this section. The comptroller, after reserving such refund and reimbursement fund shall, on or before the twelfth day of each month, pay to the appropriate recording officers an amount equal to the recording officer's fees reserved on their behalf. Provided, however, that the commissioner is authorized to request that the comptroller refrain from making such a payment of such fees to a recording officer until the commissioner has certified to the comptroller that the recording officer has supplied the commissioner with the liber and page numbers of the recorded instruments that gave rise to such fees.

(c) The system for the electronic submission of consolidated real property transfer forms shall be designed so that upon the successful electronic filing of such a form and the payment of the associated taxes and fees, the party submitting the same shall be provided with an electronic receipt in a form prescribed by the commissioner that confirms such filing and payment. Such party may file a printed copy of such receipt with the recording officer when offering the associated instrument for recording, in lieu of submitting to the recording officer the return, report, tax and fee that would otherwise have been required under this article and subdivisions one-e and three of section three hundred thirty-three of the real property law. The recording officer shall retain such receipt for a minimum of three years, unless otherwise directed by the commissioner, and shall provide a copy thereof to the commissioner for inspection upon his or her request.

(d) Upon recording the instrument to which the consolidated real property transfer form pertains, the recording officer shall provide the

commissioner with the liber and page thereof at such time and in such manner as the commissioner shall prescribe.

(e) The provisions of this section shall not be applicable within a city or county that has implemented its own electronic system for the recording of deeds, the filing of the real estate transfer tax returns and the real property transfer reports prescribed by the commissioner, and the payment of the associated taxes and fees, unless such city or county shall notify the commissioner that such jurisdiction will follow the system authorized pursuant to this section to be used therein, in writing.

§ 9. This act shall take effect immediately.

PART V

Section 1. This Part enacts into law components of legislation relating to the administration of the STAR program authorized by section 425 of the real property tax law and subsection (eee) of section 606 of the tax law. Each component is wholly contained within a Subpart identified as Subparts A through E. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A

Section 1. Paragraphs (a) and (b) of subdivision 16 of section 425 of the real property tax law, as amended by section 5 of part A of chapter 73 of the laws of 2016, are amended to read as follows:

(a) Beginning with assessment rolls used to levy school district taxes for the two thousand sixteen--two thousand seventeen school year, no application for an exemption under this section may be approved unless at least one of the applicants held title to the property on the taxable status date of the assessment roll that was used to levy school district taxes for the two thousand fifteen--two thousand sixteen school year and the property was granted an exemption pursuant to this section on that assessment roll. In addition, beginning with assessment rolls used to levy school district taxes for the two thousand twenty-one--two thousand twenty-two school year, no application for a new enhanced exemption under subdivision four of this section may be approved. In the event that an application is submitted to the assessor that cannot be approved due to this restriction, the assessor shall notify the applicant that he or she is required by law to deny the application, but that, in lieu of a STAR exemption, the applicant may claim the personal income tax credit authorized by subsection (eee) of section six hundred six of the tax law if eligible, and that the applicant may contact the department of taxation and finance for further information. The commissioner shall provide a form for assessors to use, at their option, when making this notification. No STAR exemption may be granted on the basis of an application that is not approvable due to this restriction.

(b) Where property received an exemption pursuant to this section on an assessment roll used to levy school district taxes for the two thousand fifteen--two thousand sixteen school year, and at least one of its

owners held title to the property on the taxable status date of such assessment roll, the exemption shall continue to be granted on subsequent assessment rolls without regard to the provisions of this subdivision as long as all applicable requirements of this section are satisfied. In addition, such exemption shall be subject to modification as follows:

(i) A basic STAR exemption shall be changed to an enhanced STAR exemption **on an assessment roll used to levy school district taxes for a school year prior to the two thousand twenty-one--two thousand twenty-two school year** if the owners and spouses primarily residing on the property file a timely application showing that their ages and incomes meet the requirements of subdivision four of this section. **Beginning with assessment rolls used to levy school district taxes for the two thousand twenty-one--two thousand twenty-two school year, no application for a new enhanced exemption under this section may approved. In the event that an application is submitted to the assessor that cannot be approved due to this restriction, the assessor shall notify the applicant that he or she is required by law to deny the application, but that the applicant may apply for an enhanced STAR credit pursuant to paragraph four of subsection (eee) of section six hundred six of the tax law if eligible, and that the applicant may contact the department of taxation and finance for information on how to apply for the credit. The assessor shall further notify the applicant that if he or she does not wish to switch to the credit, he or she may continue receiving the basic STAR exemption as long as the eligibility requirements for that exemption continue to be satisfied. The commissioner shall provide a form for assessors to use, at their option, when making this notification. No enhanced STAR exemption may be granted on the basis of an application that is not approvable due to this restriction. Nothing contained herein shall be construed to preclude the restoration of a previously-granted enhanced STAR exemption pursuant to subparagraphs (ii) or (iii) of this paragraph.**

(ii) An enhanced STAR exemption shall be changed to a basic STAR exemption if the combined income of the owners and spouses primarily residing on the property increases above the limit set by subdivision four of this section, subject to the provisions of subparagraph (iii) of this paragraph, provided that if their combined income falls below the limit set by subdivision four of this section in the future, **and they have not switched to the STAR credit,** their enhanced STAR exemption may be resumed upon timely application.

(iii) A STAR exemption shall be discontinued if the combined income of the owners and spouses primarily residing on the property increases above the limit set by subdivision three of this section, provided that if their income falls below such limit in the future, **and they have not switched to the STAR credit,** their STAR exemption may be resumed upon timely application.

(iv) A STAR exemption shall be permanently discontinued if the owners fail to satisfy the applicable residency or ownership requirement, or both.

§ 2. This act shall take effect immediately.

SUBPART B

Section 1. Subparagraph (i) of paragraph (c) of subdivision 17 of section 425 of the real property tax law, as added by section 2 of part G of chapter 39 of the laws of 2019, is amended to read as follows:

(i) A STAR credit switch may be deferred if the application for the credit is submitted after a cutoff date set by the commissioner. When setting a cutoff date, the commissioner shall take into account the time required to ensure that the STAR exemptions of all STAR credit applicants in the assessing unit will be removed before school tax bills are prepared. The commissioner shall specify the applicable cutoff dates after taking into account local assessment calendars, provided that different cutoff dates may be set for municipalities with different assessment calendars, and provided further that any such cutoff date may be no earlier than the [~~fifteenth~~] **sixty-first** day prior to the date on which the applicable final assessment roll is required by law to be completed and filed.

§ 2. This act shall take effect immediately.

SUBPART C

Section 1. Subsection (c) of section 651 of the tax law, as amended by section 3 of part QQ of chapter 59 of the laws of 2019, is amended to read as follows:

(c) Decedents. The return for any deceased individual shall be made and filed by his **or her** executor, administrator, or other person charged with his **or her** property. If a final return of a decedent is for a fractional part of a year, the due date of such return shall be the fifteenth day of the fourth month following the close of the twelve-month period which began with the first day of such fractional part of the year. Notwithstanding any provision of law to the contrary, when a return has been filed for a decedent, the commissioner may disclose the decedent's name, address, and the date of death to the director of real property tax services of the county **and to the assessor of the assessing unit** in which the address reported on such return is located.

§ 2. This act shall take effect immediately.

SUBPART D

Section 1. Paragraphs (b) and (c) of subdivision 2 of section 200-a of the real property tax law, as amended by section 2 of part J of chapter 57 of the laws of 2013, are amended to read as follows:

(b) The power to hear and determine reviews relating to determinations made by county equalization agencies, as provided by sections eight hundred sixteen and eight hundred eighteen of this chapter[~~; and~~

~~(c) The power to hear and determine reviews relating to determinations of STAR eligibility made by the department of taxation and finance as provided by section four hundred twenty five of this chapter~~].

§ 2. Subdivision 3 of section 200-a of the real property tax law, as added by section 7 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

3. The provisions of section five hundred twenty-five of this chapter shall apply so far as practicable to a hearing conducted by the board of real property tax services pursuant to **sections eight hundred sixteen and eight hundred eighteen of** this chapter.

§ 3. Paragraph (a-2) of subdivision 6 of section 425 of the real property tax law, as amended by section 1 of part TT of chapter 59 of the laws of 2019, is amended to read as follows:

(a-2) Notwithstanding any provision of law to the contrary, where an application for the "enhanced" STAR exemption authorized by subdivision four of this section has not been filed on or before the taxable status

date, and the owner believes that good cause existed for the failure to file the application by that date, the owner may, no later than the last day for paying school taxes without incurring interest or penalty, submit a written request to the commissioner asking him or her to extend the filing deadline and grant the exemption. Such request shall contain an explanation of why the deadline was missed, and shall be accompanied by an application, reflecting the facts and circumstances as they existed on the taxable status date. After consulting with the assessor, the commissioner may extend the filing deadline and grant the exemption if the commissioner is satisfied that (i) good cause existed for the failure to file the application by the taxable status date, and that (ii) the applicant is otherwise entitled to the exemption. The commissioner shall mail notice of his or her determination to such owner and the assessor. If the determination states that the commissioner has granted the exemption, the [~~assessor shall thereupon be authorized and directed to correct the assessment roll accordingly, or, if another person has custody or control of the assessment roll, to direct that person to make the appropriate corrections. If the correction is not made before school taxes are levied, the school district authorities shall be authorized and directed to take account of the fact that the commissioner has granted the exemption by correcting the applicant's tax bill and/or issuing a refund accordingly~~] **determination shall be implemented in the manner provided by subdivision fifteen of this section**.

§ 4. Clauses (C) and (D) of subparagraph (iv) of paragraph (b) of subdivision 4 of section 425 of the real property tax law are REPEALED and a new clause (C) is added to read as follows:

(C) If the commissioner determines that the enhanced exemption should be replaced with a basic exemption because the property is only eligible for a basic exemption, or determines that the enhanced exemption should be removed or denied without being replaced with a basic exemption because the property is not eligible for either exemption, his or her determination shall be implemented in the manner provided by subdivision fifteen of this section.

§ 5. Paragraphs (c) and (d) of subdivision 14 of section 425 of the real property tax law are REPEALED and a new paragraph (c) is added to read as follows:

(c) If the commissioner determines that a STAR exemption should be removed or denied for one or more of the reasons specified in paragraph (b) of this subdivision, his or her determination shall be implemented in the manner provided by subdivision fifteen of this section.

§ 6. Subdivisions 14-a, 15 and 15-a of section 425 of the real property tax law are REPEALED and a new subdivision 15 is added to read as follows:

15. Review by commissioner. (a) When the commissioner determines pursuant to this section that a STAR exemption should be granted, denied or modified, the assessor or other person having custody or control of the assessment roll or tax roll shall be authorized and directed upon receipt of the commissioner's determination to correct such roll accordingly. Such correction shall be made without regard to the provisions of title three of article five of this chapter or any comparable laws governing the correction of errors on assessment rolls and tax rolls, and shall be made without requesting additional documentation or the approval of any other party. In addition:

(b) If the commissioner's determination directs the granting of a STAR exemption to a property owner, or is otherwise favorable to the property owner:

(i) The assessor or other person having custody or control of the assessment roll or tax roll shall attempt to implement the commissioner's determination prior to the levy of school taxes if possible. If the correction is not made before school taxes are levied, the school district authorities shall be authorized and directed to implement the commissioner's determination by correcting the property owner's school tax bill or by providing the property owner with a credit for the amount at issue; provided that if the school tax bill has already been paid, the school district authorities shall implement the commissioner's determination by issuing a refund of the amount at issue. For purposes of this subdivision, the "amount at issue" means the additional tax savings that would have appeared on the property owner's school tax bill if the commissioner's determination had been implemented prior to the school tax levy.

(ii) Alternatively, the commissioner is authorized in his or her discretion to remit directly to the property owner or owners the amount at issue. When the commissioner does so, he or she shall so notify the assessor and county director of real property tax services. In such cases, no correction shall be made to the assessment roll or tax roll for that school year, and no credit or refund shall be provided by the school authorities to the property owner or his or her agent for the excessive amount of school taxes paid for that school year.

(c) If the commissioner's determination directs the denial of a STAR exemption to a property owner, or is otherwise unfavorable to the property owner:

(i) The commissioner shall mail the property owner notice of his or her determination and an opportunity to be heard thereon. If the owner fails to respond to such notice within forty-five days from the mailing thereof, the commissioner's determination shall stand and no further review shall be available. If the owner responds to such notice within the forty-five day period, the commissioner shall review the response and any documentation provided in support thereof and shall notify the owner of his or her final determination. If dissatisfied with the commissioner's final determination, the owner may seek judicial review thereof pursuant to article seventy-eight of the civil practice law and rules. The property owner shall otherwise have no right to challenge such final determination in a court action, administrative proceeding or any other form of legal recourse against the commissioner, the department, the assessor or other person having custody or control of the assessment roll or tax roll regarding such action.

(ii) Notwithstanding any provision of law to the contrary, neither an assessor nor a board of assessment review has the authority to consider an objection to the denial or reduction of an exemption pursuant to this subdivision, nor may such an action be reviewed in a proceeding to review an assessment pursuant to title one or one-A of article seven of this chapter. Such an action may only be challenged before the department in the manner described in this paragraph.

(iii) If a STAR exemption should appear on a property owner's school tax bill despite the fact that the commissioner had determined the property owner to be ineligible for that exemption, the commissioner is authorized to recover the amount at issue directly from the owners of the property by utilizing any of the procedures for collection, levy, and lien of personal income tax set forth in article twenty-two of the tax law, and any other relevant procedures referenced within the provisions of such article. When the commissioner implements the determination in this manner, he or she shall so notify the assessor and

county director of real property tax services, but no correction shall be made to the assessment roll or tax roll for that school year, and no corrected school tax bill shall be sent to the taxpayer for that school year.

§ 7. Section 171-u of the tax law, as added by section 2 of part FF of chapter 57 of the laws of 2010, and subdivision 5 as added by section 7 of part N of chapter 58 of the laws of 2011, is amended to read as follows:

§ 171-u. Verification of income eligibility for basic STAR exemption. (1) [~~On or after August fifteenth of each year, beginning in two thousand ten, the commissioner shall procure a report or reports identifying all parcels receiving the basic STAR exemption authorized by section four hundred twenty-five of the real property tax law. The commissioner is authorized to develop procedures necessary to ascertain to the best of his or her ability whether the parcels satisfy the income eligibility requirements for such exemption. Such determination shall be based upon the affiliated income of the parcel for the applicable income tax year, as defined by paragraph (b-1) of subdivision three of section four hundred twenty-five of the real property tax law.~~

~~(2) The commissioner shall further develop procedures by which each assessor shall be notified of his or her findings, stating in each case either that the parcel does or does not meet the income eligibility standard prescribed by law, or that the income-eligibility of such parcel cannot be ascertained, whichever is appropriate. The commissioner shall provide no other information about the income of any person to an assessor. Such reports shall be furnished to assessors prior to the applicable taxable status date or as soon thereafter as is possible.~~

~~(3) Upon receiving such a report, the assessor shall grant the exemption to those parcels which the commissioner determined to be income-eligible (assuming the assessor finds that the remaining eligibility requirements continue to be satisfied), shall deny the exemption to those which the commissioner determined not to be income-eligible, and shall solicit income documentation from the owners of those parcels as to which the commissioner was unable to make a determination. Where the assessor denies the exemption based upon the commissioner's report, a notice of denial shall be mailed as provided by paragraph (b) of subdivision six of section four hundred twenty-five of the real property tax law, giving the findings of such department as a reason for such denial.~~

~~(4) Where a STAR exemption has been improperly granted on a final assessment roll to a property where the affiliated income exceeds the limitations established by paragraph (b-1) of subdivision three of section four hundred twenty-five of the real property tax law, the improperly granted exemption shall be corrected in the manner provided by subdivision twelve of section four hundred twenty-five of the real property tax law.~~

~~(5)~~] The commissioner shall verify the income eligibility of recipients of the basic STAR exemption authorized by section four hundred twenty-five of the real property tax law in the manner provided therein.

(2)(a) Notwithstanding any provision of law to the contrary, the commissioner may adopt rules prescribing a uniform statewide system of parcel identification numbers applicable to all "assessing units", as that term is defined by section one hundred two of the real property tax law, provided that no such rule shall apply to an assessment roll with a taxable status date occurring prior to January first, two thousand thirteen.

(b) Notwithstanding the foregoing provisions of this subdivision, the commissioner may, at his or her discretion, adopt rules that are applicable only to "special assessing units," as that term is defined by section eighteen hundred one of the real property tax law, which prescribe an alternative system of parcel identification numbers solely for such special assessing units.

§ 8. This act shall take effect immediately.

SUBPART E

Section 1. Paragraph 2 of subdivision w of section 233 of the real property law is REPEALED.

§ 2. Paragraph 3 of subdivision w of section 233 of the real property law, as amended by section 18 of part B of chapter 389 of the laws of 1997, is amended to read as follows:

3. A manufactured home park owner or operator providing a reduction in rent as required by paragraph one [~~or two~~] of this subdivision may retain, in consideration for record keeping expenses, two percent of the amount of such reduction.

§ 3. The opening paragraph of paragraph 3-a of subdivision w of section 233 of the real property law, as added by chapter 405 of the laws of 2001, is amended to read as follows:

Any reduction required to be provided pursuant to paragraph one [~~or two~~] of this subdivision shall be provided as follows:

§ 4. Paragraph (l) of subdivision 2 of section 425 of the real property tax law is amended by adding a new subparagraph (iv) to read as follows:

(iv) Beginning with assessment rolls used to levy school district taxes for the two thousand twenty-two--two thousand twenty-three school year, no exemption shall be granted pursuant to this section to a mobile home that is described in this paragraph. Owners of such property may claim the credit authorized by subsection (eee) of section six hundred six of the tax law in the manner prescribed therein.

§ 5. Subparagraph (B) of paragraph 6 of subsection (eee) of section 606 of the tax law is amended by adding a new clause (iii) to read as follows:

(iii) Beginning with the two thousand twenty-two taxable year, to receive the credit authorized by this subsection, an owner of a mobile home described by clause (i) of this subparagraph shall register for such credit in the manner prescribed by the commissioner and claim the credit upon his or her personal income tax return for the taxable year in question. Notwithstanding the provisions of paragraph ten of this subsection, the commissioner shall not make advance payments of the credit to such owners.

§ 6. This act shall take effect immediately; provided, however, that the amendments to subdivision w of section 233 of the real property law made by sections one, two and three of this act shall be applicable beginning with assessment rolls used to levy school district taxes for the 2022--2023 school year.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section, item, subpart or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, item, subpart or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is here-

by declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately, provided, however, that the applicable effective date of Subparts A through E of this act shall be as specifically set forth in the last section of such Subparts.

PART W

Section 1. Section 200 of the real property tax law, as amended by section 4-a of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 200. State board. There is hereby created in the department of taxation and finance a separate and independent state board of real property tax services, to consist of five members to be appointed by the governor, by and with the advice and consent of the senate. Of those five members appointed by the governor, one such person shall be an individual actively engaged in the commercial production for sale of agricultural crops, livestock and livestock products of an average gross sales value of ten thousand dollars or more. Said individual shall be appointed in the first instance to a term of eight years upon expiration of an existing term. Said initial term shall commence on the first day of January next succeeding the year in which the existing term shall expire. The governor shall designate one of the members as the chairman of the board, who shall serve as chairman at the pleasure of the governor. **A majority of the duly appointed members shall constitute a quorum and not less than a majority of such members concurring may transact any business, perform any duty or exercise any power of the board.** The members of the board shall be appointed for terms of eight years, commencing on the first day of January next following the year in which the term of his predecessor expired, except that the terms of the members first appointed shall expire as follows: one on December thirty-first, nineteen hundred sixty-one, one on December thirty-first, nineteen hundred sixty-three, one on December thirty-first, nineteen hundred sixty-five, one on December thirty-first, nineteen hundred sixty-seven, and one on December thirty-first, nineteen hundred eighty-two. Vacancies occurring otherwise than by expiration of term shall be filled for the unexpired term. All members shall receive necessary expenses incurred in the performance of their duties.

§ 2. Section 307 of the real property tax law is REPEALED.

§ 3. Subdivision 4 of section 483 of the real property tax law, as amended by chapter 72 of the laws of 1979 and as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, and as renumbered by chapter 797 of the laws of 1992, is amended to read as follows:

4. Such exemption from taxation shall be granted only upon an application by the owner of the building or structure on a form prescribed by the commissioner. The applicant shall furnish such information as [~~such board~~] **the commissioner** shall require. Such application shall be filed with the assessor of the city, town, village or county having the power to assess property for taxation on or before the appropriate taxable status date of such city, town, village or county and within one year from the date of completion of such construction or reconstruction.

§ 4. Subdivision 3 of section 489-n of the real property tax law, as added by chapter 86 of the laws of 1963 and as further amended by subdi-

vision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

3. The commissioner shall meet at the time and place specified in such notice to hear complaints in relation to the tentative determination of the railroad ceiling. The provisions of section five hundred twelve of this chapter shall apply so far as may be practicable to a hearing under this section. **Nothing contained in this subdivision shall be construed to require a hearing to be conducted when no complaints have been filed.**

§ 5. Subdivision 3 of section 489-kk of the real property tax law, as added by chapter 920 of the laws of 1977 and as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

3. The commissioner shall meet at the time and place specified in such notice to hear complaints in relation to the tentative determination of the railroad ceiling. The provisions of section five hundred twelve of this chapter shall apply so far as may be practicable to a hearing under this section. **Nothing contained in this subdivision shall be construed to require a hearing to be conducted when no complaints have been filed.**

§ 6. The real property tax law is amended by adding a new section 497 to read as follows:

§ 497. Construction of certain local option provisions in exemption statutes. 1. Population restrictions. When an exemption statute makes one or more options available to municipal corporations having a population within a specified range, and the governing body of a municipal corporation adopts a local law or resolution exercising such an option while its population is within the specified range, a subsequent change in the population of the municipal corporation that places it outside the specified range shall not render such local law or resolution ineffective or invalid, nor shall it impair the ability of the governing body to amend or repeal such local law or resolution to the same extent as if its population were still within the specified range. Provided, however, that this subdivision shall not apply to any exemption statute that expressly provides that a local law or resolution adopted thereunder shall become ineffective or invalid if the population of the municipal corporation subsequently experiences a change that places it outside the specified range.

2. Filing provisions. When an exemption statute makes one or more options available to some or all municipal corporations, and further provides that a municipal corporation adopting a local law or resolution exercising such an option shall file a copy thereof with one or more state agencies other than the department of state, but if such statute does not expressly provide that a local law or resolution exercising such an option shall not take effect until a copy thereof is filed with the specified state agency or agencies, then a failure to comply with such filing provision shall not render such local law or resolution ineffective or invalid.

§ 7. Subdivision 3 of section 499-oooo of the real property tax law, as added by chapter 475 of the laws of 2013, is amended to read as follows:

3. The commissioner or his or her designee shall meet at the time and place specified in such notice set forth in subdivision one of this section to hear complaints in relation to the tentative determination of the assessment ceiling. The provisions of section five hundred twelve of this chapter shall apply so far as may be practicable to a hearing under this section. **Nothing contained in this subdivision shall be construed to require a hearing to be conducted when no complaints have been filed.**

§ 8. Section 612 of the real property tax law, as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 612. Hearing of complaints. The commissioner or a duly authorized representative thereof shall meet at the time and place specified in the notice required by section six hundred eight of this chapter to hear complaints in relation to assessments of special franchises. The provisions of section five hundred twelve of this chapter shall apply so far as practicable to the hearing of complaints pursuant to this section. **Nothing contained in this section shall be construed to require a hearing to be conducted when no complaints have been filed.**

§ 9. Section 1208 of the real property tax law, as amended by chapter 385 of the laws of 1990 and as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 1208. Hearing of complaints. The commissioner or a duly authorized representative thereof shall meet at the time and place specified in the notice required by section twelve hundred four of this chapter to hear complaints in relation to equalization rates, class ratios or class equalization rates. The provisions of section five hundred twenty-five of this chapter shall apply so far as practicable to a hearing under this section. **Nothing contained in this section shall be construed to require a hearing to be conducted when no complaints have been filed.**

§ 10. This act shall take effect immediately; provided, however, that notwithstanding the provisions of subdivision 2 of section 497 of the real property tax law as added by section six of this act, the decision issued by the Appellate Division, Third Department on April 16, 2020, in the Matter of Laertes Solar, LLC v Assessor of the Town of Harford, cited as 182 A.D.3d 826, 122 N.Y.S.3d 427, and 2020 NY Slip Op 02302, motion for leave to appeal dismissed in part and otherwise denied by the Court of Appeals on November 19, 2020, shall remain binding upon the parties thereto; and provided further that the amendments made to section 489-oooo of the real property tax law made by section seven of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.

PART X

Section 1. Subdivisions 5, 7 and 9 of section 487 of the real property tax law, subdivision 5 as amended by chapter 325 of the laws of 2018, subdivision 7 as amended by chapter 515 and subdivision 9 as added by chapter 608 of the laws of 2002, and paragraph (a) of subdivision 9 as amended by chapter 344 of the laws of 2014, are amended to read as follows:

5. The exemption granted pursuant to this section shall only be applicable to (a) solar or wind energy systems or farm waste energy systems which are (i) existing or constructed prior to July first, nineteen hundred eighty-eight or (ii) constructed subsequent to January first, nineteen hundred ninety-one and prior to January first, two thousand [~~twenty-five~~] **thirty**, and (b) micro-hydroelectric energy systems, fuel cell electric generating systems, micro-combined heat and power generating equipment systems, electric energy storage equipment or electric energy storage system, or fuel-flexible linear generator electric generating system which are constructed subsequent to January first, two thousand eighteen and prior to January first, two thousand [~~twenty-five~~] **thirty**.

7. If the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and enter the taxable assessed value of the parcel for which an exemption has been granted pursuant to this section on the assessment roll with the taxable property, with the amount of the exemption **set forth in a separate column** as computed pursuant to subdivision two of this section in a separate column. In the event that real property granted an exemption pursuant to this section ceases to be used primarily for eligible purposes, the exemption granted pursuant to this section shall cease.

9. (a) A county, city, town, village or school district, except a school district under article fifty-two of the education law, that has not acted to remove the exemption under this section may require the owner of a property which includes a solar or wind energy system which meets the requirements of subdivision four of this section, to enter into a contract for payments in lieu of taxes. Such contract may require annual payments in an amount not to exceed the amounts which would otherwise be payable but for the exemption under this section. If the owner or developer of such a system provides written notification to a taxing jurisdiction of its intent to construct such a system, then in order to require the owner or developer of such system to enter into a contract for payments in lieu of taxes, such taxing jurisdiction must notify such owner or developer **in writing** of its intent to require a contract for payments in lieu of taxes within sixty days of receiving the written notification. **Written notification to a taxing jurisdiction for this purpose shall include a hard copy letter sent to the highest-ranking official of the taxing jurisdiction. Such letter shall explicitly reference subdivision nine of section four hundred eighty-seven of the real property tax law, and clearly state that, unless the taxing jurisdiction responds within sixty days in writing with its intent to require a contract for payments in lieu of taxes, and such project shall not be obligated to make such payments.**

(b) **Notwithstanding paragraph (a) of this subdivision, should a taxing jurisdiction adopt a law or resolution at any time within or prior to the sixty day window, indicating the taxing jurisdiction's ongoing intent to require a contract for payments in lieu of taxes for such systems, such law or resolution shall be considered notification to owners or developers and no further action is required on the part of the taxing jurisdiction, provided that such law or resolution remains in effect through the end of the sixty day notification period.**

[~~The~~] **(c) Any** payment in lieu of a tax agreement shall not operate for a period of more than fifteen years, commencing in each instance from the date on which the benefits of such exemption first become available and effective.

§ 2. Subdivision 1 of section 575-a of the real property tax law, as added by section 1 of subpart F of part J of chapter 59 of the laws of 2019, is amended to read as follows:

1. Every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any electric generating facility in the state shall annually file with the commissioner, by April thirtieth, a report showing the inventory, revenue, and expenses associated therewith for the most recent fiscal year**, and such other information as the commissioner may reasonably require**. Such report shall be in the form and manner prescribed by the commissioner.

§ 3. The real property tax law is amended by adding a new section 575-b to read as follows:

§ 575-b. Solar or wind energy systems. 1. The assessed value for solar or wind energy system, as defined in section four hundred eighty-seven of this chapter, shall be determined by an income capitalization or discounted cash flow approach that:

(a) Considers an appraisal model identified and published by the New York state department of taxation and finance, in consultation with the New York state energy research and development authority, within one hundred eighty days of the effective date of this section, and periodically thereafter as appropriate; and

(b) Includes a solar or wind energy system discount rate published annually by the New York state department of taxation and finance.

2. In addition to the reports required by section five hundred seventy-five-a of this title, and notwithstanding any provision to the contrary contained in such section, the commissioner may require the owner or operator of a solar or wind energy system, as defined in section four hundred eighty-seven of this chapter, to annually file with the commissioner, by April thirtieth, a report showing such information as the commissioner may reasonably require for the development and maintenance of an appraisal model and discount rate.

3. The provisions of this section shall only apply to solar or wind energy systems with a nameplate capacity equal to or greater than one megawatt.

§ 4. The third undesignated paragraph of section 852 of the general municipal law, as amended by chapter 630 of the laws of 1977, is amended to read as follows:

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of facilities to provide recreation for the citizens of the state and to attract tourists from other states **and to promote the development of renewable energy projects to support the state's renewable energy goals as may be established or amended from time to time**.

§ 5. Subdivision 4 of section 854 of the general municipal law, as amended by section 6 of part J of chapter 59 of the laws of 2013, is amended and a new subdivision 21 is added to read as follows:

(4) "Project" - shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial**, renewable energy** or industrial purposes or other economically sound purposes identified and called for to implement a state designated urban cultural park management plan as provided in title G of the parks, recreation and historic preservation law and which may include or mean an industrial pollution control facility, a recreation facility, educational or cultural facility, a horse racing facility, a railroad facility**, a renewable energy project** or an automobile racing facility, provided, however, no agency shall use its funds or provide financial assistance in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in

which a part or parts of the project is, or is to be, located, and such portion of the project located outside such municipality for whose benefit the agency was created shall be contiguous with the portion of the project inside such municipality.

(21) "Renewable energy project" shall mean any project and associated real property on which the project is situated, that utilizes any system or equipment as set forth in section four hundred eighty-seven of the real property tax law or as defined pursuant to paragraph b of subdivision one of section sixty-six-p of the public service law as added by chapter one hundred six of the laws of two thousand nineteen.

§ 6. The opening paragraph of section 858 of the general municipal law, as amended by chapter 478 of the laws of 2011, is amended to read as follows:

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research**, renewable energy** and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities**, renewable energy projects** and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living; and to carry out the aforesaid purposes, each agency shall have the following powers:

§ 7. Paragraph (b) of subdivision 5 of section 859-a of the general municipal law, as added by chapter 563 of the laws of 2015, is amended to read as follows:

(b) a written cost-benefit analysis by the agency that identifies the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; the amount of private sector investment generated or likely to be generated by the proposed project; **the contribution of the project to the state's renewable energy goals and emission reduction targets as set forth in the state energy plan adopted pursuant to section 6-104 of the energy law;** the likelihood of accomplishing the proposed project in a timely fashion; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts; and any other public benefits that might occur as a result of the project;

§ 8. This act shall take effect immediately.

PART Y

Section 1. Legislative intent. Article 1 Section 9 of the New York State Constitution was recently amended and provides "casino gambling at no more than seven facilities as authorized and prescribed by the legislature shall hereafter be authorized or allowed within this state." It is the sense of the legislature that this provision is not contravened by a statute which authorizes the acceptance of a wager by an individual who is betting by virtual or electronic means; provided that it meets other safeguards ensuring that the plain text of this provision is

honored in such structure. Sports wagering is now legal online in 14 states, including the bordering states of New Jersey and Pennsylvania, while it is only permitted in person in New York at four upstate commercial gaming facilities and Native American Class III gaming facilities. An industry study found that nearly 20 percent of New Jersey's online sports wagering revenue comes from New York residents, costing the state millions of dollars in lost tax revenue.

§ 2. Section 1367 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 7 to read as follows:

7. (a) A licensed gaming facility operating a sports pool pursuant to subdivision three of this section may offer mobile sports wagering when conducted in conformance with section one thousand three hundred sixty-seven-a of this title.

(b) Notwithstanding section one thousand three hundred fifty-one of this article, mobile sports wagering revenue shall be excluded from gross gaming revenue and shall be separately maintained and returned to the state for deposit into the state lottery fund for education aid, on a schedule determined by the commission.

§ 3. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 1367-a to read as follows:

§ 1367-a. Mobile sports wagering. Mobile sports wagering shall be permitted by the commission through a platform provider or providers selected pursuant to a competitive bidding process conducted by the commission. The winning platform provider or providers shall use the technology necessary to ensure all bettors are physically within approved locations within the state and ensure the necessary safeguards against abuses and addictions are in place. Any such contracts entered by the commission are subject to applicable state laws, regulations and practices.

§ 4. Subdivision 1 of section 1351 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

1. **(a)** For a gaming facility in zone two, there is hereby imposed a tax on gross gaming revenues. The amount of such tax imposed shall be as follows[~~; provided, however, should a licensee have agreed within its application to supplement the tax with a binding supplemental fee payment exceeding the aforementioned tax rate, such tax and supplemental fee shall apply for a gaming facility~~]:

[~~(a)~~] **(1)** in region two, forty-five percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

[~~(b)~~] **(2)** in region one, thirty-nine percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

[~~(c)~~] **(3)** in region five, thirty-seven percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

(b) (1) Notwithstanding the rates in paragraph (a) of this subdivision, a gaming facility may petition the commission to lower their slot tax rate to no lower than twenty-five percent. The commission shall evaluate the petition using the following criteria:

(i) the ability of the licensee to satisfy the license criterion of financial stability absent the tax rate reduction;

(ii) a complete examination of all financial projections, as well as gaming revenues generated for the prior annual period;

(iii) the licensee's intended use of the funds resulting from a tax adjustment;
(iv) the inability of the operator to remain competitive under the current tax structure;
(v) positions advanced by other gaming operators in the state in response to the petition;
(vi) the impact on the competitive landscape;
(vii) other economic factors such as employment and the potential impact upon other businesses in the region; and
(viii) the public interest to be served by a tax adjustment, including the impact upon the state in the event the operator is unable to remain financially viable.
(2) The commission shall report their recommendation to the director of the division of budget who will make a final determination.

§ 5. This act shall take effect immediately; provided, however, that section four of this act shall take effect sixty days after mobile sports wagering commences and shall expire and be deemed repealed one year after such date.

PART Z

Section 1. The gaming commission shall issue a request for information for the purpose of soliciting interest regarding the three unawarded gaming facility licenses authorized by the state constitution. Such request shall seek information from parties interested in developing and/or operating such gaming facilities which shall inform the commission for the purposes of determining: the appropriate size and scope of development, the value of the gaming facility license, and the process that should be used in award consideration.

§ 2. This act shall take effect immediately.

PART AA

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

(1) sixty percent of the total amount for which tickets have been sold for [~~a lawful lottery~~] the Quick Draw game [~~introduced on or after the effective date of this paragraph,~~] subject to [~~the following provisions:~~
~~(A) such game shall be available only on premises occupied by licensed lottery sales agents, subject to the following provisions:~~
~~(i) if the licensee does not hold a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises, then the premises must have a minimum square footage greater than two thousand five hundred square feet;~~
~~(ii) notwithstanding the foregoing provisions, television equipment that automatically displays the results of such drawings may be installed and used without regard to the square footage if such premises are used as:~~
~~(I) a commercial bowling establishment, or~~
~~(II) a facility authorized under the racing, pari-mutuel wagering and breeding law to accept pari-mutuel wagers;~~
~~(B) the~~] rules for the operation of such game [~~shall be~~] as prescribed by regulations promulgated and adopted by the [~~division, provided however, that such rules shall provide that no person under the age of twenty-one may participate in such games on the premises of a licensee who~~

~~holds a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises; and, provided, further, that such regulations may be revised on an emergency basis not later than ninety days after the enactment of this paragraph in order to conform such regulations to the requirements of this paragraph~~] commission; or

§ 2. This act shall take effect immediately.

PART BB

Section 1. Paragraphs 4 and 5 of subdivision a of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, are amended to read as follows:

(4) fifty percent of the total amount for which tickets have been sold for games known as: (A) the "Daily Numbers Game" or "Win 4", discrete games in which the participants select no more than three or four of their own numbers to match with three or four numbers drawn by the [~~division~~] commission for purposes of determining winners of such games, (B) "Pick 10", [~~offered no more than once daily,~~] in which participants select from a specified field of numbers a subset of ten numbers to match against a subset of numbers to be drawn by the [~~division~~] commission from such field of numbers for the purpose of determining winners of such game, (C) "Take 5", [~~offered no more than once daily,~~] in which participants select from a specified field of numbers a subset of five numbers to match against a subset of five numbers to be drawn by the [~~division~~] commission from such field of numbers for purposes of determining winners of such game; or

(5) forty percent of the total amount for which tickets have been sold for: (A) "Lotto", [~~offered no more than once daily,~~] a discrete game in which all participants select a specific subset of numbers to match a specific subset of numbers, as prescribed by rules and regulations promulgated and adopted by the [~~division~~] commission, from a larger specific field of numbers, as also prescribed by such rules and regulations and (B) with the exception of the game described in paragraph one of this subdivision, such other state-operated lottery games [~~which~~] that the [~~division~~] commission may introduce, [~~offered no more than once daily,~~] commencing on or after forty-five days following the official publication of the rules and regulations for such game.

§ 2. This act shall take effect immediately.

PART CC

Section 1. Sections 1368, 1369, 1370 and 1371 of the racing, pari-mutuel wagering and breeding law are renumbered sections 130, 131, 132 and 133.

§ 2. Title 9 of article 13 of the racing, pari-mutuel wagering and breeding law is REPEALED.

§ 3. Section 130 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 130. [~~Establishment of the~~] The office of gaming inspector general. [~~There is hereby created within the commission the office of gaming inspector general. The head of the office shall be the gaming inspector general who shall be appointed by the governor by and with the advice and consent of the senate. The inspector general shall serve at the pleasure of the governor. The inspector general shall report directly to~~

~~the governor. The person appointed as inspector general shall, upon his or her appointment, have not less than ten years professional experience in law, investigation, or auditing. The inspector general shall be compensated within the limits of funds available therefor, provided, however, such salary shall be no less than the salaries of certain state officers holding the positions indicated in paragraph (a) of subdivision one of section one hundred sixty-nine of the executive law.~~] **The duties and responsibilities of the former office of the gaming inspector general are transferred to and encompassed by the office of the state inspector general as expressly referenced in article four-A of the executive law.**

§ 4. Section 131 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 131. [~~State gaming~~] **Gaming** inspector general; functions and duties. The [~~state~~] gaming inspector general shall have the following duties and responsibilities:

1. receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in the commission;

2. [~~inform the commission members of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality;~~

~~3.~~] determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency is warranted, and to assist in such investigations;

[~~4.~~] **3.** prepare and release to the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses. The release of all or portions of such reports may be deferred to protect the confidentiality of ongoing investigations;

[~~5.~~] **4.** review and examine periodically the policies and procedures of the commission with regard to the prevention and detection of corruption, fraud, criminal activity, conflicts of interest or abuse;

[~~6.~~] **5.** recommend remedial action to prevent or eliminate corruption, fraud, criminal activity, conflicts of interest or abuse in the commission; and

[~~7.~~] **6.** establish programs for training commission officers and employees [~~regarding~~] **in regard to** the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest or abuse in the commission.

§ 5. Section 132 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 132. Powers. The [~~state~~] gaming inspector general shall have the power to:

1. subpoena and enforce the attendance of witnesses;

2. administer oaths or affirmations and examine witnesses under oath;

3. require the production of any books and papers deemed relevant or material to any investigation, examination or review;

4. notwithstanding any law to the contrary, examine and copy or remove documents or records of any kind prepared, maintained or held by the commission;

5. require any commission officer or employee to answer questions concerning any matter related to the performance of his or her official

duties. **No statement or other evidence derived therefrom may be used against such officer or employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony.** The refusal of any officer or employee to answer questions shall be cause for removal from office or employment or other appropriate penalty;

6. monitor the implementation by the commission of any recommendations made by the state inspector general; and

7. perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of the office.

§ 6. Section 133 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 133. Responsibilities of the commission and its officers and employees. 1. Every commission officer or employee shall report promptly to the [~~state~~] gaming inspector general any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee relating to his or her office or employment, or by a person having business dealings with the commission relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty under this article. Any officer or employee who acts pursuant to this subdivision by reporting to the [~~state~~] gaming inspector general or other appropriate law enforcement official improper governmental action as defined in section seventy-five-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.

2. The commission chair shall advise the governor within ninety days of the issuance of a report by the [~~state~~] gaming inspector general as to the remedial action that the commission has taken in response to any recommendation for such action contained in such report.

§ 7. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 134 to read as follows:

§ 134. Transfer of employees. Upon the transfer of functions, powers, duties and obligations to the office of the state inspector general pursuant to this article, provision shall be made for the transfer of all gaming inspector general employees from within the gaming commission into the office of the state inspector general. Employees so transferred shall be transferred without further examination or qualification to the same or similar titles, 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.

§ 8. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 135 to read as follows:

§ 135. Transfer of records. All books, papers, records and property of the gaming inspector general within the gaming commission with respect to the functions, powers, duties and obligations transferred by section one hundred thirty of this article, are to be delivered to the appropriate successor offices within the office of the state inspector general, at such place and time, and in such manner as the office of the state inspector general may require.

§ 9. This act shall take effect on the sixtieth day after it shall have become a law.

PART DD

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility and for account wagering licensees that do not operate either a simulcast facility that is open to the public within the state of New York or a licensed racetrack within the state, twenty thousand dollars per year payable by the licensee to the commission for deposit into the general fund. Except as provided in this section, the commission shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The commission may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the commission. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [~~twenty-one~~] twenty-two; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the commission to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [~~twenty-one~~] twenty-two; and (iv) no in-home

simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

§ 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as separately amended by chapter 243 and section 2 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June thirtieth, two thousand [~~twenty-one~~] twenty-two, the amount used exclusively for purses to be awarded at races conducted by such receiving track shall be computed as follows: of the sums so retained, two and one-half percent of the total pools. Such amount shall be increased or decreased in the amount of fifty percent of the difference in total commissions determined by comparing the total commissions available after July twenty-first, nineteen hundred ninety-five to the total commissions that would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

§ 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as separately amended by section 3 of part Z of chapter 59 and chapter 243 of the laws of 2020, is amended to read as follows:

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

§ 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

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

§ 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June

thirtieth, two thousand [~~twenty-one~~] twenty-two. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organization as approved by the commission, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live full-card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article:

§ 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

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

§ 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

§ 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [~~2021~~] 2022; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

§ 8. Section 54 of chapter 346 of the laws of 1990, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, as amended by section 8 of part Z of chapter 59 of the laws of 2020, is amended to read as follows:

§ 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [~~2021~~] 2022; and section eighteen of this

act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as separately amended by section 9 of part Z of chapter 59 and chapter 243 of the laws of 2020, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets are presented for payment before April first of the year following the year of their purchase, less an amount that shall be established and retained by such franchised corporation of between twelve to seventeen percent of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one percent of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five percent of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six percent of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the commission.

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

For the period April first, two thousand one through December thirty-first, two thousand [~~twenty-one~~] twenty-two, such tax on all wagers shall be one and six-tenths percent, plus, in each such period, twenty percent of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one percent of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three percent of super exotic bets and for the period April first, two thousand one through December thirty-first, two thousand [~~twenty-one~~] twenty-two, such payment shall be seven-tenths of one percent of regular, multiple and exotic pools.

§ 10. This act shall take effect immediately.

PART EE

Section 1. Section 19 of part W-1 of chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, as amended by section 1 of part U of chapter 60 of the laws of 2016, is amended to read as follows:

§ 19. This act shall take effect immediately; provided, however, that sections one through thirteen of this act shall take effect September 1, 2006 and shall be deemed repealed on September 1, [~~2021~~] **2026** and such repeal shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law, and shall apply to sales made, fuel compounded or manufactured, and uses occurring on or after such date, and with respect to sections seven through eleven of this act, in accordance with applicable transitional provisions of sections 1106 and 1217 of the tax law; provided, however, that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to adopt and amend any rules or regulations and to take any steps necessary to implement the provisions of this act; provided further that sections fourteen through sixteen of this act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2006.

§ 2. This act shall take effect immediately.

PART FF

Section 1. Subsection (e) of section 42 of the tax law, as added by section 1 of part RR of chapter 60 of the laws of 2016, is amended to read as follows:

(e) For taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and two hundred fifty dollars. For taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and three hundred dollars. For taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and five hundred dollars. For taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and four hundred dollars. For taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand [~~twenty-two~~] **twenty-five**, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and six hundred dollars.

§ 2. Section 5 of part RR of chapter 60 of the laws of 2016 amending the tax law relating to creating a farm workforce retention credit is amended to read as follows:

§ 5. This act shall take effect immediately and shall apply only to taxable years beginning on or after January 1, 2017 and before January 1, [~~2022~~] **2025**.

§ 3. This act shall take effect immediately.

PART GG

Section 1. Subdivision 4 of section 22 of the public housing law, as amended by section 5 of part H of chapter 60 of the laws of 2016, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be one hundred [~~four~~] twelve million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

§ 2. Subdivision 4 of section 22 of the public housing law, as amended by section one of this act, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be one hundred [~~twelve~~] twenty million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

§ 3. Subdivision 4 of section 22 of the public housing law, as amended by section two of this act, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be one hundred [~~twenty~~] twenty-eight million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

§ 4. Subdivision 4 of section 22 of the public housing law, as amended by section three of this act, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be one hundred [~~twenty-eight~~] thirty-six million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

§ 5. Subdivision 4 of section 22 of the public housing law, as amended by section four of this act, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be one hundred [~~thirty-six~~] forty-four million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

§ 6. This act shall take effect immediately; provided, however, section two of this act shall take effect April 1, 2022; section three of this act shall take effect April 1, 2023; section four of this act shall take effect April 1, 2024; and section five of this act shall take effect April 1, 2025.

PART HH

Section 1. Section 5 of part HH of chapter 59 of the laws of 2014, amending the tax law relating to a musical and theatrical production credit, as amended by section 1 of part III of chapter 59 of the laws of 2018, is amended to read as follows:

§ 5. This act shall take effect immediately, provided that section two of this act shall take effect on January 1, 2015, and shall apply to taxable years beginning on or after January 1, 2015, with respect to "qualified production expenditures" and "transportation expenditures" paid or incurred on or after such effective date, regardless of whether the production of the qualified musical or theatrical production commenced before such date, provided further that this act shall expire and be deemed repealed [~~8 years after such date~~] **January 1, 2026**.

§ 2. Paragraph 1 of subdivision (e) of section 24-a of the tax law, as added by section 1 of part HH of chapter 59 of the laws of 2014, is amended to read as follows:

(1) The aggregate amount of tax credits allowed under this section, subdivision forty-seven of section two hundred ten-B and subsection (u) of section six hundred six of this chapter in any calendar year shall be [~~four~~] **eight** million dollars. Such aggregate amount of credits shall be allocated by the department of economic development among taxpayers in order of priority based upon the date of filing an application for allocation of musical and theatrical production credit with such department. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this section, such excess shall be treated as having been applied for on the first day of the subsequent year.

§ 3. This act shall take effect immediately, provided, however, that the amendments to section 24-a of the tax law made by section two of this act shall not affect the expiration and repeal of such section and shall be deemed to expire and repeal therewith.

PART II

Section 1. Paragraph (a) and subparagraph 2 of paragraph (b) of subdivision 29 of section 210-B of the tax law, as amended by section 1 of part B of chapter 59 of the laws of 2020, are amended to read as follows:

(a) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~twenty-two~~] **twenty-four**, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

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

§ 2. Paragraph 1 and subparagraph (B) of paragraph 2 of subsection (a-2) of section 606 of the tax law, as amended by section 2 of part B of chapter 59 of the laws of 2020, are amended to read as follows:

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

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

§ 3. Paragraph 1 and subparagraph (B) of paragraph 2 of subdivision (g-1) of section 1511 of the tax law, as amended by section 3 of part B of chapter 59 of the laws of 2020, are amended to read as follows:

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

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

§ 4. This act shall take effect immediately.

PART JJ

Section 1. Section 12 of part V of chapter 61 of the laws of 2011, amending the economic development law, the tax law and the real property tax law, relating to establishing the economic transformation and facility redevelopment program and providing tax benefits under that program, is amended to read as follows:

§ 12. This act shall take effect immediately and shall expire and be deemed repealed December 31, [~~2021~~] 2026.

§ 2. Paragraph (a) of subdivision 11 of section 400 of the economic development law, as amended by section 1 of part GG of chapter 58 of the laws of 2020, is amended to read as follows:

(a) a correctional facility, as defined in paragraph (a) of subdivision four of section two of the correction law, that has been selected by the governor of the state of New York for closure after April first, two thousand eleven but no later than March thirty-first, two thousand [~~twenty-one~~] twenty-six; or

§ 3. This act shall take effect immediately; provided, however, that the amendments to section 400 of the economic development law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART KK

Section 1. The opening paragraph of section 1310 of the general business law, as added by section 2 of part X of chapter 55 of the laws of 2018, is amended to read as follows:

Except as otherwise provided in this article, the program shall be implemented, and enrollment of employees shall begin[~~, within twenty-four months after the effective date of this article~~] no later than December thirty-first, two thousand twenty-one. The provisions of this section shall be in force after the board opens the program for enrollment.

§ 2. Section 1315 of the general business law, as added by section 2 of part X of chapter 55 of the laws of 2018, is amended to read as follows:

§ 1315. Delayed implementation. The board may delay the implementation of the program an additional twelve months beyond the [~~twenty-four months~~] date established in section thirteen hundred ten of this article if the board determines that further delay is necessary to address legal, financial or other programmatic concerns impacting the viability of the program. The board shall provide reasonable notice of such delay to the governor, the commissioner, the speaker of the assembly, the temporary president of the senate, the chair of the assembly ways and means committee, the chair of the senate finance committee, the chair of the assembly labor committee, and the chair of the senate labor committee.

§ 3. This act shall take effect immediately.

PART LL

Section 1. For the period from and after March 1, 2020 until such time as the licensee and the video lottery gaming facility that are each subject to subdivision 2 of section 1355 of the racing, pari-mutuel wagering and breeding law, as added by the Upstate New York Gaming Economic Development Act of 2013, as amended, have each been continuously operating without any restrictions related to Covid-19 for at least six full and consecutive calendar months, the payments to the relevant horsemen and breeders required by subdivision 2 of section 1355 of the racing, pari-mutuel wagering and breeding law, as added by the Upstate New York Gaming Economic Development Act of 2013, as amended, shall not accrue and shall be permanently waived and forgiven. The accrual and obligation to make payments under such subdivision 2 of such section 1355 shall recommence at such time as the licensee and the video lottery gaming facility that are each subject to such subdivision 2 of such section 1355 have each been continuously operating without any restrictions related to Covid-19 for at least six full and consecutive calendar months. Payments to the relevant horsemen and breeders for the period beginning January 1, 2020 through February 28, 2020 shall be payable in six equal monthly installments of $106,407 per month over a six-month period beginning with the first month after the licensee has been continuously operating without any restrictions related to Covid-19 for at least six full and consecutive calendar months.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in

its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through LL of this act shall be as specifically set forth in the last section of such Parts.