

STATE OF NEW YORK

854

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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

AN ACT in relation to constituting chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the penal law, in relation to the growing and use of cannabis by persons twenty-one years of age or older; to amend the tax law, in relation to providing for the levying of taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law, the alcoholic beverage control law, the general obligations law, the social services law, the agriculture and markets law and the vehicle and traffic law, in relation to making conforming changes; to amend the public health law, in relation to the definition of smoking; to amend the state finance law, in relation to establishing the New York state cannabis revenue fund, the New York state drug treatment and public education fund and the New York state community grants reinvestment fund; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal certain provisions of the public health law relating to growing of cannabis and medical use of marihuana; to repeal article 221 of the penal law relating to offenses involving marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal certain provisions of the criminal procedure law relating to certain criminal actions; and to repeal

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

LBD02565-02-1

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

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

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

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

5 CHAPTER 7-A OF THE CONSOLIDATED LAWS

6 CANNABIS LAW

7 ARTICLE 1

8 SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT;

9 DEFINITIONS

10 Section 1. Short title.

11 2. Legislative findings and intent.

12 3. Definitions.

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

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

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

36 Nothing in this act is intended to limit the authority of any district
37 government agency or office or employers to enact and enforce policies
38 pertaining to cannabis in the workplace, to allow driving under the
39 influence of cannabis, to allow individuals to engage in conduct that
40 endangers others, to allow smoking cannabis in any location where smok-
41 ing tobacco is prohibited, or to require any individual to engage in any
42 conduct that violates federal law or to exempt anyone from any require-
43 ment of federal law or pose any obstacle to the federal enforcement of
44 federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 13. "Certification" means a certification made under this chapter.
- 2 14. "Certified medical use" includes the acquisition, administration,
3 cultivation, manufacture, delivery, harvest, possession, preparation,
4 transfer, transportation, or use of cannabis or paraphernalia relating
5 to the administration of cannabis to treat or alleviate a certified
6 patient's medical condition or symptoms associated with the patient's
7 medical condition.
- 8 15. "Certified patient" means a patient who is a resident of New York
9 state or receiving care and treatment in New York state as determined by
10 the board in regulation, and is certified under this chapter.
- 11 16. "Chief equity officer" means the chief equity officer of the
12 office of cannabis management.
- 13 17. "Commercial cannabis activity" means the production, cultivation,
14 manufacturing, processing, possession, storing, laboratory testing,
15 packaging, labeling, transportation, delivery, or sale of cannabis and
16 cannabis products as provided for in this chapter.
- 17 18. "Concentrated cannabis" means: (a) the separated resin, whether
18 crude or purified, obtained from a plant of the genus Cannabis; or (b) a
19 material, preparation, mixture, compound or other substance which
20 contains more than three percent by weight of delta-9 tetrahydrocannabi-
21 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
22 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
23 system.
- 24 19. "Condition" means having one of the following conditions: cancer,
25 positive status for human immunodeficiency virus or acquired immune
26 deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease,
27 multiple sclerosis, damage to the nervous tissue of the spinal cord with
28 objective neurological indication of intractable spasticity, epilepsy,
29 inflammatory bowel disease, neuropathies, Huntington's disease, post-
30 traumatic stress disorder, pain that degrades health and functional
31 capability where the use of medical cannabis is an alternative to opioid
32 use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia,
33 rheumatoid arthritis, autism or any other condition certified by the
34 practitioner.
- 35 20. "Cultivation" means growing, cloning, harvesting, drying, curing,
36 grading, and trimming of cannabis plants for sale to certain other cate-
37 gories of cannabis license- and permit-holders.
- 38 21. "Delivery" means the direct delivery of cannabis products by a
39 retail licensee, microbusiness licensee, or delivery license holder to a
40 cannabis consumer.
- 41 22. "Designated caregiver facility" means a general hospital or resi-
42 dential health care facility operating pursuant to article twenty-eight
43 of the public health law; an adult care facility operating pursuant to
44 title two of article seven of the social services law; a community
45 mental health residence established pursuant to section 41.44 of the
46 mental hygiene law; a hospital operating pursuant to section 7.17 of the
47 mental hygiene law; a mental hygiene facility operating pursuant to
48 article thirty-one of the mental hygiene law; an inpatient or residen-
49 tial treatment program certified pursuant to article thirty-two of the
50 mental hygiene law; a residential facility for the care and treatment of
51 persons with developmental disabilities operating pursuant to article
52 sixteen of the mental hygiene law; a residential treatment facility for
53 children and youth operating pursuant to article thirty-one of the
54 mental hygiene law; a private or public school; research institution
55 with an internal review board; or any other facility as determined by
56 the board in regulation; that registers with the office to assist one or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 47. "Registry identification card" means a document that identifies a
39 certified patient or designated caregiver, as provided under this chap-
40 ter.

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

46 49. "Retailer" means any person who sells at retail any cannabis prod-
47 uct, the sale of which a license is required under the provisions of
48 this chapter.

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

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

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

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

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

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

14 ARTICLE 2

15 NEW YORK STATE CANNABIS CONTROL BOARD

16 Section 7. Establishment of the cannabis control board or "board".

17 8. Establishment of an office of cannabis management.

18 9. Executive director.

19 10. Powers and duties of the cannabis control board.

20 11. Functions, powers and duties of the executive director;
21 office of cannabis control.

22 12. Chief equity officer.

23 13. Rulemaking authority.

24 14. State cannabis advisory board.

25 15. Disposition of moneys received for license fees.

26 16. Violations of cannabis laws or regulations; penalties and
27 injunctions.

28 17. Formal hearings; notice and procedure.

29 18. Ethics, transparency and accountability.

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

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

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

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

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

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

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

28 (ii) The governor shall provide immediate written notice to the tempo-
29 rary president of the senate and the speaker of the assembly of the
30 designation of a board member as acting chairperson;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 4. To fix by rule and regulation the standards of cultivation and
21 processing of medical cannabis, adult use cannabis and cannabis product,
22 and cannabinoid hemp and hemp extract, including but not limited to, the
23 ability to regulate potency and the types of products which may be manu-
24 factured and/or processed, in order to ensure the health and safety of
25 the public and the use of proper ingredients and methods in the manufac-
26 ture of all medical, adult-use, cannabinoid hemp and hemp extract to be
27 sold or consumed in the state.

28 5. To limit or prohibit, at any time of public emergency and without
29 previous notice or advertisement, the cultivation, processing, distrib-
30 ution or sale of any or all cannabis products, medical cannabis or
31 cannabinoid hemp and hemp extract, for and during the period of such
32 emergency.

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

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

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

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

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

11 10. To appoint such advisory groups and committees as deemed necessary
12 to provide assistance to the board to carry out the purposes and objec-
13 tives of this chapter.

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

18 12. To develop and establish minimum criteria for certifying employees
19 to work in the cannabis industry in positions requiring advanced train-
20 ing and education.

21 13. To enter into contracts, memoranda of understanding, and agree-
22 ments as deemed appropriate to effectuate the policy and purpose of this
23 chapter.

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

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

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

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

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

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

1 (c) specific programs and progress made by the cannabis control board
2 and the office of cannabis management in achieving the goals of the
3 social and economic equity plan, and other social justice goals includ-
4 ing, but not limited to, restorative justice, minority- and women-owned
5 businesses, disadvantaged farmers business and service disabled veter-
6 ans;

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

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

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

16 (g) any other information or data deemed significant.

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

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

31 1. To exercise the powers and perform the duties in relation to the
32 administration of the office of cannabis management as are not specif-
33 ically vested by this chapter in the cannabis control board.

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

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

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

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

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

54 7. To delegate the powers provided in this section to such other offi-
55 cers or employees as may be deemed appropriate by the executive direc-
56 tor.

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

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

7 10. To advise and assist the board in carrying out any of its func-
8 tions, powers and duties.

9 § 12. Chief equity officer. The chief equity officer shall be nomi-
10 nated by the governor and confirmed by the senate. The chief equity
11 officer shall receive an annual salary not to exceed an amount appropri-
12 ated therefor by the legislature and their expenses actually and neces-
13 sarily incurred in the performance of official duties, unless otherwise
14 provided by the legislature.

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

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

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

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

35 2. The board shall, in consultation with the executive director, the
36 chief equity officer and the state cannabis advisory board, have the
37 authority to promulgate any and all necessary rules and regulations
38 governing the cultivation, manufacture, processing, transportation,
39 distribution, testing, delivery, and sale of medical cannabis, adult-use
40 cannabis, and cannabinoid hemp and hemp extract, including but not
41 limited to the registration of organizations authorized to sell medical
42 cannabis, the licensing and/or permitting of adult-use cannabis cultiva-
43 tors, processors, cooperatives, microbusiness, distributors, laborato-
44 ries, and retailers, and the licensing of cannabinoid hemp and hemp
45 extract producers and processors pursuant to this chapter, including,
46 but not limited to:

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

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

51 (c) the books and records to be created and maintained by all regis-
52 tered organizations, licensees, and permittees, including the reports to
53 be made thereon to the office, and inspection of any and all books and
54 records maintained by any registered organization, licensee, or permit-
55 tee and on the premise of any registered organization, licensee, or
56 permittee;

1 (d) methods of producing, processing, and packaging cannabis, medical
2 cannabis, cannabis-infused products, concentrated cannabis, and cannabi-
3 noid hemp and hemp extract; conditions of sanitation, and standards of
4 ingredients, quality, and identity of cannabis products cultivated,
5 processed, packaged, or sold by any registered organizations and licen-
6 sees;

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

12 (f) hearing procedures and additional causes for cancellation, suspen-
13 sion, revocation, and/or civil penalties against any person registered,
14 licensed, or permitted by the authority.

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

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

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

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

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

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

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

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

31 4. The board, in consultation with the department of agriculture and
32 markets and the department of environmental conservation, shall promul-
33 gate necessary rules and regulations governing the safe production of
34 cannabis, including environmental and energy standards and restrictions
35 on the use of pesticides and best practices for water and energy conser-
36 vation.

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

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

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

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

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

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

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

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

41 4. The chairperson of the advisory board and the vice chairperson
42 shall be elected from among the members of the advisory board by the
43 members of such advisory board. The vice chairperson shall represent the
44 advisory board in the absence of the chairperson at all official advi-
45 sory board functions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 § 18. Ethics, transparency and accountability. No member of the board
30 or office or any officer, deputy, assistant, inspector or employee, or
31 spouse or minor child of such member, officer, assistant, inspector or
32 employee thereof shall have any interest, direct or indirect, either
33 proprietary or by means of any loan, mortgage or lien, or in any other
34 manner, in or on any premises where adult-use cannabis, medical cannabis
35 or cannabinoid hemp and hemp extract is cultivated, processed, distrib-
36 uted or sold; nor shall he or she have any interest, direct or indirect,
37 in any business wholly or partially devoted to the cultivation, process-
38 ing, distribution, sale, transportation or storage of adult-use canna-
39 bis, medical cannabis or cannabinoid hemp and hemp extract, or own any
40 stock in any corporation which has any interest, proprietary or other-
41 wise, direct or indirect, in any premises where adult use cannabis,
42 medical cannabis or cannabinoid hemp and hemp extract is cultivated,
43 processed, distributed or sold, or in any business wholly or partially
44 devoted to the cultivation, processing, distribution, sale, transporta-
45 tion or storage of adult-use cannabis, medical cannabis or cannabinoid
46 hemp and hemp extract, or receive any commission or profit whatsoever,
47 direct or indirect, from any person applying for or receiving any
48 license or permit provided for in this chapter, or hold any other
49 elected or appointed public office in the state or in any political
50 subdivision. After notice and opportunity to be heard, anyone found to
51 have knowingly violated any of the provisions of this section shall,
52 after notice, be removed and shall divest themselves of such direct or
53 indirect interests, in addition to any other penalty provided by law.

- 1 Section 30. Certification of patients.
- 2 31. Lawful medical use.
- 3 32. Registry identification cards.
- 4 33. Registration as a designated caregiver facility.
- 5 34. Registered organizations.
- 6 35. Registering of registered organizations.
- 7 36. Reports of registered organizations.
- 8 37. Evaluation; research programs; report by board.
- 9 38. Cannabis research license.
- 10 39. Registered organizations and adult-use cannabis.
- 11 40. Relation to other laws.
- 12 41. Home cultivation of medical cannabis.
- 13 42. Protections for the medical use of cannabis.
- 14 43. Regulations.
- 15 44. Suspend; terminate.
- 16 45. Pricing.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (b) The office shall create the form to be used for a special certif-
30 ication and shall make that form available to be downloaded from the
31 office's website.

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

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

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

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

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

1 4. the form or forms of medical cannabis that may be possessed by the
2 certified patient, designated caregiver or designated caregiver facility
3 pursuant to a certification shall be in compliance with any recommenda-
4 tion or limitation by the practitioner as to the form or forms of
5 medical cannabis or dosage for the certified patient in the certif-
6 ication;

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

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

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

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

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

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

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

32 (iii) the date of the certification;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 10. A registry identification card shall:

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

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

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

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

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

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

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

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

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

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

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

27 14. The board shall verify to law enforcement personnel in an appro-
28 priate case whether a registry identification card is valid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 10. A registered organization may contract with a person or entity to
2 provide facilities, equipment or services that are ancillary to the
3 registered organization's functions or activities under this article
4 including, but not limited to, shipping, maintenance, construction,
5 repair, and security, provided that the person or entity shall not
6 perform any function or activity directly involving the planting, grow-
7 ing, tending, harvesting, processing, or packaging of cannabis plants,
8 medical cannabis, or medical cannabis products being produced by the
9 registered organization; or any other function directly involving manu-
10 facturing or retailing of medical cannabis. All laws and regulations
11 applicable to such facilities, equipment, or services shall apply to the
12 contract. The registered organization and other parties to the contract
13 shall each be responsible for compliance with such laws and regulations
14 under the contract. The board may make regulations consistent with this
15 article relating to contracts and parties to contracts under this subdi-
16 vision.

17 11. A registered organization shall, based on the findings of an inde-
18 pendent laboratory, provide documentation of the quality, safety and
19 clinical strength of the medical cannabis manufactured or dispensed by
20 the registered organization to the office and to any person or entity to
21 which the medical cannabis is sold or dispensed.

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

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

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

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

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

47 (ii) that the applicant:

48 (A) is of good moral character;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the application or any newly discovered or occurring fact or circum-
2 stance which is required to be included in the application.

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

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

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

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

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

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

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

27 (b) For purposes of this section, proof that a registered organiza-
28 tion, during the period of its registration, has failed to maintain
29 effective control against diversion, violates any provision of this
30 article, or has knowingly or negligently failed to comply with applica-
31 ble state laws relating to the activities in which it engages under the
32 registration, shall constitute grounds for suspension, termination or
33 limitation of the registered organization's registration or as deter-
34 mined by the board. The registered organization shall also be under a
35 continuing duty to report to the authority any material change or fact
36 or circumstance to the information provided in the registered organiza-
37 tion's application.

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

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

1 areas of the state. Additional registered organization shall be reflec-
2 tive of the demographics of the state.

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

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

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

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

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

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

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

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

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

37 (d) to conduct genomic or agricultural research.

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

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

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

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

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

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

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

9 (a) application requirements;

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

12 (c) conditions for license revocation;

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

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

17 (f) licensee reporting requirements;

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

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

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

26 7. The application fee for a cannabis research license shall be deter-
27 mined by the board on an annual basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (b) The name, contact information, and other information relating to
48 practitioners registered with the board under this article shall be
49 public information and shall be maintained on the board's website acces-
50 sible to the public in searchable form. However, if a practitioner noti-
51 fies the board in writing that he or she does not want his or her name
52 and other information disclosed, that practitioner's name and other
53 information shall thereafter not be public information or maintained on
54 the board's website, unless the practitioner cancels the request.

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

4 § 43. Regulations. The board shall promulgate regulations in consulta-
 5 tion with the cannabis advisory board to implement this article.

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

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

17 ARTICLE 4

18 ADULT-USE CANNABIS

- 19 Section 61. License application.
 20 62. Information to be requested in applications for licenses.
 21 63. Fees.
 22 64. Selection criteria.
 23 65. Limitations of licensure; duration.
 24 66. License renewal.
 25 67. Amendments; changes in ownership and organizational struc-
 26 ture.
 27 68. Adult-use cultivator license.
 28 68-a. Registered organization adult-use cultivator processor
 29 distributor retail dispensary license.
 30 68-b. Registered organization adult-use cultivator license.
 31 69. Adult-use processor license.
 32 70. Small business adult-use cooperative license.
 33 71. Adult-use distributor license.
 34 72. Adult-use retail dispensary license.
 35 73. Microbusiness license.
 36 74. Delivery license.
 37 75. Nursery license.
 38 76. Notification to municipalities of adult-use retail dispen-
 39 sary or on-site consumption license.
 40 77. Adult-use on-site consumption license; provisions govern-
 41 ing on-site consumption licenses.
 42 78. Record keeping and tracking.
 43 79. Inspections and ongoing requirements.
 44 80. Adult-use cultivators, processors or distributors not to
 45 be interested in retail dispensaries.
 46 81. Packaging and labeling of adult-use cannabis products.
 47 82. Laboratory testing.
 48 83. Provisions governing the cultivation and processing of
 49 adult-use cannabis.
 50 84. Provisions governing the distribution of adult-use canna-
 51 bis.
 52 85. Provisions governing adult-use cannabis retail dispensar-
 53 ies.
 54 86. Adult-use cannabis advertising.

1 87. Social and economic equity, minority and women-owned busi-
2 nesses, disadvantaged farmers and service-disabled
3 veterans; incubator program.

4 88. Data collection and reporting.

5 89. Regulations.

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

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

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

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

32 2. The board is authorized to adopt regulations, including by emergen-
33 cy rule, establishing information which must be included on an applica-
34 tion for licensure under this article. Such information may include, but
35 is not limited to: information about the applicant's identity, includ-
36 ing racial and ethnic diversity; ownership and investment information,
37 including the corporate structure; evidence of good moral character,
38 including the submission of fingerprints by the applicant to the divi-
39 sion of criminal justice services; information about the premises to be
40 licensed; financial statements; and any other information prescribed by
41 regulation.

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

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

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

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

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

16 1-a. The board shall also have the authority to assess a registered
17 organization with a one-time special licensing fee for a registered
18 organization adult-use cultivator, processor, distributor, retail
19 dispensary license. Such fee shall be assessed at an amount to
20 adequately fund social and economic equity and incubator assistance
21 pursuant to this article and paragraph (c) of subdivision three of
22 section ninety-nine-ii of the state finance law. Provided, however,
23 that the board shall not allow registered organizations to dispense
24 adult-use cannabis from more than three of their medical cannabis
25 dispensing locations. The timing and manner in which registered organ-
26 izations may be granted such authority shall be determined by the board
27 in regulation.

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

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

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

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

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

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

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

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

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

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

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

5 (ii) the number, classes, and character of other licenses in proximity
6 to the location and in the particular municipality or subdivision there-
7 of;

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

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

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

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

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

18 (viii) any other factors specified by law or regulation that are rele-
19 vant to determine that granting a license would promote public conven-
20 ience and advantage and the public interest of the community;

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

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

33 (j) the applicant will contribute to communities and people dispropor-
34 tionately harmed by enforcement of cannabis laws and report these
35 contributions to the board;

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

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

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

44 2. If the board is not satisfied that the applicant should be issued a
45 license, the executive director shall notify the applicant in writing of
46 the specific reason or reasons recommended by the board for denial.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 52 (a) the name and address of the licensee;
53 (b) the activities permitted by the license;
54 (c) the land, buildings and facilities that may be used for the
55 licensed activities of the licensee;
56 (d) a unique license number issued by the board to the licensee; and

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

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

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

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

14 (a) for a corporation, a change of eighty percent or more of the offi-
15 cers and/or directors, or a transfer of eighty percent or more of stock
16 of such corporation, or an existing stockholder obtaining eighty percent
17 or more of the stock of such corporation; or

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

23 (c) for a partnership, a change of eighty percent or more of the
24 managing partners of the company, or a transfer of eighty percent or
25 more of ownership interest in said company, or an existing member
26 obtaining a cumulative of eighty percent or more of the ownership inter-
27 est in said company.

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

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

38 3. A person holding an adult-use cultivator's license may apply for,
39 and obtain, one processor's license.

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

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

50 6. No person may have a direct or indirect financial or controlling
51 interest in more than one adult-use cultivator license issued pursuant
52 to this chapter.

53 § 68-a. Registered organization adult-use cultivator processor
54 distributor retail dispensary license. A registered organization culti-
55 vator processor distributor retail dispensary license shall have the
56 same authorization and conditions as adult-use cultivator, adult-use

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

11 § 68-b. Registered organization adult-use cultivator license. A regis-
12 tered organization cultivator license shall have the same authorization
13 and conditions as an adult-use cultivator license, provided, however,
14 that sales of adult-use cannabis and cannabis products by such organiza-
15 tions shall be limited to licensed adult-use processors and such license
16 does not qualify such organization for any other adult-use license.

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

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

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

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

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

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

39 § 70. Small business adult-use cooperative license. 1. A cooperative
40 license shall authorize the acquisition, possession, cultivation, proc-
41 essing and sale from the licensed premises of the adult-use cooperative
42 by such licensee to duly licensed distributors, on-site consumption
43 sites, and/or retail dispensaries; but not directly to cannabis consum-
44 ers.

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

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

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

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

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

4 (v) the cooperative must operate according to the seven cooperative
5 principles published by the International Cooperative Alliance in nine-
6 teen hundred ninety-five.

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

10 4. No natural person or member of a small business adult-use cooper-
11 ative license may have a direct or indirect financial or controlling
12 interest in any other adult-use cannabis license issued pursuant to this
13 chapter.

14 5. No small business adult-use cannabis cooperative shall have a
15 direct or indirect interest, including by stock ownership, interlocking
16 directors, mortgage or lien, personal or real property, or any other
17 means, in any premises licensed as an adult-use cannabis retail dispen-
18 sary or in any business licensed as an adult-use cannabis retail dispen-
19 sary pursuant to this chapter.

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

24 § 71. Adult-use distributor license. 1. A distributor's license shall
25 authorize the acquisition, possession, distribution and sale of cannabis
26 from the licensed premises of a licensed adult-use cultivator, process-
27 or, small business adult-use cooperative or microbusiness authorized
28 pursuant to this chapter to sell adult-use cannabis, to duly licensed
29 retail dispensaries.

30 2. No distributor shall have a direct or indirect economic interest in
31 any adult-use retail dispensary or in any adult-use cultivator or
32 processor licensed pursuant to this article, or in any registered organ-
33 ization registered pursuant to article three of this chapter. This
34 restriction shall not prohibit a registered organization authorized
35 pursuant to subdivision one of section thirty-nine of this chapter, from
36 being granted licensure by the board to distribute adult-use cannabis
37 products cultivated and processed by the registered organization to
38 licensed adult-use retail dispensaries owned and operated by such regis-
39 tered organization.

40 3. Nothing in subdivision two of this section shall prevent a distrib-
41 utor from charging an appropriate fee, authorized by the board, for the
42 distribution of cannabis, including based on the volume of cannabis
43 distributed.

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

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

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

1 4. No retail license shall be granted for any premises, unless the
2 applicant shall be the owner thereof, or shall be able to demonstrate
3 possession of the premises within thirty days of initial approval of the
4 license through a lease, management agreement or other agreement giving
5 the applicant control over the premises, in writing, for a term not less
6 than the license period.

7 5. With the exception of microbusiness licensees, no premises shall be
8 licensed to sell cannabis products, unless said premises shall be
9 located in a store, the principal entrance to which shall be from the
10 street level and located on a public thoroughfare in premises which may
11 be occupied, operated or conducted for business, trade or industry.

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

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

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

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

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

37 § 75. Nursery license. 1. A nursery license shall authorize the
38 production, sale and distribution of clones, immature plants, seeds, and
39 other agricultural products used specifically for the planting, propa-
40 gation, and cultivation of cannabis. For the purposes of this section,
41 the office shall provide recommendations to the board for the applica-
42 tion process, license criteria and scope of licensed activities for this
43 class of license. Such licenses shall promote social and economic equity
44 applicants as provided for in this chapter.

45 2. A person or entity holding a cultivators license may apply for, and
46 obtain, one nursery license to sell directly to other cultivators, coop-
47 eratives, or microbusinesses.

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

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

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

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

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

12 4. When a city, town, or village, and in New York city a community
13 board, expresses an opinion for or against the granting of such regis-
14 tration, license or permit application, any such opinion shall be deemed
15 part of the record upon which the office makes its recommendation to the
16 board to grant or deny the application and the board shall respond in
17 writing to such city, town, village or community board with an explana-
18 tion of how such opinion was considered in the granting or denial of an
19 application.

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

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

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

29 (b) the full name of the applicant;

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

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

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

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

37 (i) a new establishment;

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

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

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

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

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

46 (i) the type of license.

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

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

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

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

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

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

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

24 (b) the number, classes, and character of other licenses in proximity
25 to the location and in the particular municipality or subdivision there-
26 of;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 4. Such books, records and invoices shall be kept for a period of five
12 years and shall be available for inspection by any authorized represen-
13 tative of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 5. The packaging, sale, marketing, branding, advertising, labeling or
35 possession by any licensee of any cannabis product not labeled or
36 offered in conformity with rules and regulations promulgated in accord-
37 ance with this section shall be grounds for the imposition of a fine,
38 and/or the suspension, revocation or cancellation of a license in
39 accordance with the provisions of this chapter.

40 § 82. Laboratory testing. 1. Every processor of adult-use cannabis
41 shall contract with an independent laboratory permitted pursuant to
42 section one hundred twenty-nine of this chapter, to test the cannabis
43 products it produces pursuant to rules and regulations prescribed by the
44 office. The board may assign an approved testing laboratory, which the
45 processor of adult-use cannabis must use.

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

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

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

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

5 6. The board shall have the authority to require any licensee under
6 this article to submit cannabis or cannabis products to one or more
7 independent laboratories for testing.

8 § 83. Provisions governing the cultivation and processing of adult-use
9 cannabis. 1. No cultivator or processor of adult-use cannabis shall
10 sell, or agree to sell or deliver in the state any cannabis products, as
11 the case may be, except in originally sealed containers containing quan-
12 tities in accordance with size standards pursuant to rules adopted by
13 the board. Such containers shall have affixed thereto such labels as may
14 be required by the rules of the board.

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

20 3. Cultivators of adult-use cannabis shall comply with plant culti-
21 vation regulations, standards, and guidelines consistent with the
22 provisions applicable to hemp, cannabinoid hemp, and hemp extract and
23 issued by the board, in consultation with the department of environ-
24 mental conservation and the department of agriculture and markets. Such
25 regulations, standards, and guidelines shall be guided by sustainable
26 farming principles and practices such as organic, regenerative, and
27 integrated pest management models, and shall restrict whenever possible,
28 the use of pesticides to those that are registered by the department of
29 environmental conservation or that specifically meet the United States
30 environmental protection agency registration exemption criteria for
31 minimum risk, used in compliance with rules, regulations, standards and
32 guidelines issued by the department of environmental conservation for
33 pesticides.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 precondition to the sale of any cannabis or cannabis product. Nothing in
2 this section shall prohibit a licensee or agent or employee from
3 performing such a transaction scan on any of the other documents listed
4 in this subdivision if such documents include a bar code or magnetic
5 strip that may be scanned by a device capable of deciphering any elec-
6 tronically readable format. In instances where the information deci-
7 phered by the transaction scan fails to match the information printed on
8 the driver's license or non-driver identification card presented by the
9 card holder, or if the transaction scan indicates that the information
10 is false or fraudulent, the attempted purchase of the cannabis or canna-
11 bis product shall be denied.

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

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

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

24 6. All premises licensed under this section shall be subject to
25 inspection by any peace officer described in subdivision four of section
26 2.10 of the criminal procedure law acting pursuant to his or her special
27 duties, or police officer or any duly authorized representative of the
28 board, during the hours when the said premises are open for the trans-
29 action of business.

30 7. No cannabis retail licensee shall be interested, directly or indi-
31 rectly, in any cultivator, processor, distributor or microbusiness oper-
32 ator licensed pursuant to this article, by stock ownership, interlocking
33 directors, mortgage or lien on any personal or real property or by any
34 other means. Any lien, mortgage or other interest or estate, however,
35 now held by such retailer on or in the personal or real property of such
36 manufacturer or distributor, which mortgage, lien, interest or estate
37 was acquired on or before December thirty-first, two thousand nineteen,
38 shall not be included within the provisions of this subdivision;
39 provided, however, the burden of establishing the time of the accrual of
40 the interest comprehended by this subdivision, shall be upon the person
41 who claims to be entitled to the protection and exemption afforded here-
42 by.

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

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

51 10. No person licensed to sell cannabis products at retail, shall
52 allow or permit any gambling, or offer any gambling on the licensed
53 premises, or allow or permit illicit drug activity on the licensed prem-
54 ises.

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

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

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

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

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

- 21 (a) is false, deceptive, or misleading;
- 22 (b) promotes overconsumption;
- 23 (c) depicts consumption by children or other minors;
- 24 (d) is designed in any way to appeal to children or other minors;
- 25 (e) is within five hundred feet of the perimeter of a school grounds,
26 playground, child day care providers, public park, or library;
- 27 (f) is in public transit vehicles and stations;
- 28 (g) is in the form of an unsolicited internet pop-up;
- 29 (h) is on publicly owned or operated property; or
- 30 (i) makes medical claims or promotes adult-use cannabis for a medical
31 or wellness purpose.

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

- 36 (a) appeal to persons less than twenty-one years of age; or
- 37 (b) disseminate false or misleading information to customers.

38 4. The board shall promulgate explicit rules requiring that:

- 39 (a) all advertisements and marketing accurately and legibly identify
40 the licensee or other business responsible for its content; and
- 41 (b) any broadcast, cable, radio, print and digital communications
42 advertisements only be placed where the audience is reasonably expected
43 to be twenty-one years of age or older, as determined by reliable,
44 up-to-date audience composition data.

45 § 87. Social and economic equity, minority and women-owned businesses,
46 disadvantaged farmers and service-disabled veterans; incubator program.

47 1. The board, in consultation with the state cannabis advisory board and
48 the chief equity officer, and after receiving public input shall create
49 and implement a social and economic equity plan and actively promote
50 applicants from communities disproportionately impacted by cannabis
51 prohibition, and promote racial, ethnic, and gender diversity when issu-
52 ing licenses for adult-use cannabis related activities, including
53 mentoring potential applicants, by prioritizing consideration of appli-
54 cations by applicants who are from communities disproportionately
55 impacted by the enforcement of cannabis prohibition or who qualify as a
56 minority or women-owned business, disadvantaged farmers, or service

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

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

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

12 (b) minority-owned businesses;

13 (c) women-owned businesses;

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

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

18 (f) service-disabled veterans.

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

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

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

27 (c) was convicted of a marijuana-related offense prior to the effec-
28 tive date of this chapter, or had a parent, guardian, child, spouse, or
29 dependent, or was a dependent of an individual who, prior to the effec-
30 tive date of this chapter, was convicted of a marijuana-related offense.

31 4. The board in consultation with the cannabis advisory board and the
32 chief equity officer, shall also create an incubator program to encour-
33 age social and economic equity applicants to apply and, if granted an
34 adult-use cannabis license, permit or registration, the program shall
35 provide direct support in the form of counseling services, education,
36 small business coaching and financial planning, and compliance assist-
37 ance.

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

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

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

45 (ii) an enterprise in which such minority ownership is real, substan-
46 tial and continuing;

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

50 (iv) an enterprise authorized to do business in this state and inde-
51 pendently owned and operated; and

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

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

- 1 (i) black persons having origins in any of the black African racial
2 groups;
- 3 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
4 Central or South American of either Indian or Hispanic origin, regard-
5 less of race;
- 6 (iii) Native American or Alaskan native persons having origins in any
7 of the original peoples of North America; or
- 8 (iv) Asian and Pacific Islander persons having origins in any of the
9 far east countries, south east Asia, the Indian subcontinent or the
10 Pacific islands.
- 11 (c) "Women-owned business" shall mean a business enterprise, including
12 a sole proprietorship, partnership, limited liability company or corpo-
13 ration that is:
- 14 (i) at least fifty-one percent owned by one or more United States
15 citizens or permanent resident aliens who are women;
- 16 (ii) an enterprise in which the ownership interest of such women is
17 real, substantial and continuing;
- 18 (iii) an enterprise in which such women ownership has and exercises
19 the authority to control independently the day-to-day business decisions
20 of the enterprise;
- 21 (iv) an enterprise authorized to do business in this state and inde-
22 pendently owned and operated; and
- 23 (v) an enterprise that is a small business.
- 24 (d) A firm owned by a minority group member who is also a woman may be
25 defined as a minority-owned business, a women-owned business, or both.
- 26 (e) "Disadvantaged farmer" shall mean a New York state resident or
27 business enterprise, including a sole proprietorship, partnership,
28 limited liability company or corporation, that has reported at least
29 two-thirds of its federal gross income as income from farming, in at
30 least one of the past five preceding tax years, and who:
- 31 (i) farms in a county that has greater than ten percent rate of pover-
32 ty according to the latest U.S. Census Bureau's American Communities
33 Survey;
- 34 (ii) has been disproportionately impacted by low commodity prices or
35 faces the loss of farmland through development or suburban sprawl; and
- 36 (iii) meets any other qualifications as defined in regulation by the
37 board.
- 38 (f) "Service-disabled veterans" shall mean persons qualified under
39 article seventeen-B of the executive law.
- 40 (g) "Communities disproportionately impacted" shall mean, but not be
41 limited to, a history of arrests, convictions, and other law enforcement
42 practices in a certain geographic area, such as, but not limited to,
43 precincts, zip codes, neighborhoods, and political subdivisions,
44 reflecting a disparate enforcement of cannabis prohibition during a
45 certain time period, when compared to the rest of the state. The board
46 shall, in consultation with the state cannabis advisory board and the
47 chief equity officer, issue guidelines to determine how to assess which
48 communities have been disproportionately impacted and how to assess if
49 someone is a member of a community disproportionately impacted.
- 50 6. The board shall actively promote applicants that foster racial,
51 ethnic, and gender diversity in their workforce.
- 52 7. Licenses issued under the social and economic equity plan shall not
53 be transferred or sold within the first three years of issue, except to
54 a qualified social and economic equity applicant and with the prior
55 written approval of the board. In the event a social and economic equity
56 applicant seeks to transfer or sell their license at any point after

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

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

10 § 89. Regulations. The board shall promulgate regulations in consul-
 11 tation with the state cannabis advisory board to implement this article.

12 ARTICLE 5

13 CANNABINOID HEMP AND HEMP EXTRACT

14 Section 90. Definitions.

15 91. Rulemaking authority.

16 92. Cannabinoid hemp processor license.

17 93. Cannabinoid hemp retailer license.

18 94. Cannabinoid license applications.

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

20 96. Fees.

21 97. Selection criteria.

22 98. License renewal.

23 99. Form of license.

24 100. Transferability; amendment to license; change in ownership
 25 or control.

26 101. Granting, suspending or revoking licenses.

27 102. Record keeping and tracking.

28 103. Packaging and labeling of cannabinoid hemp and hemp
 29 extract.

30 104. Processing of cannabinoid hemp and hemp extract.

31 105. Laboratory testing.

32 106. New York hemp product.

33 107. Penalties.

34 108. Hemp workgroup.

35 109. Prohibitions.

36 110. Special use permits.

37 111. Severability.

38 § 90. Definitions. As used in this article, the following terms shall
 39 have the following meanings, unless the context clearly requires other-
 40 wise:

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

45 2. "Cannabinoid hemp" means any hemp and any product processed or
 46 derived from hemp, that is used for human consumption provided that when
 47 such product is packaged or offered for retail sale to a consumer, it
 48 shall not have a concentration of more than three tenths of a percent
 49 delta-9 tetrahydrocannabinol.

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

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

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

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

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

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

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

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

37 1. Specifying forms, establishing application, reasonable adminis-
38 tration and renewal fees, or license duration;

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

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

43 4. Any reporting requirements;

44 5. Methods and standards of processing, labeling, packaging and
45 marketing of cannabinoid hemp, hemp extract and products derived there-
46 from;

47 6. Procedures for how cannabinoid hemp, hemp extract or ingredients,
48 additives, or products derived therefrom can be deemed as acceptable for
49 sale in the state;

50 7. Provisions governing the modes and forms of administration, includ-
51 ing inhalation;

52 8. Procedures for determining whether cannabinoid hemp, hemp extract
53 or ingredients, additives, or products derived therefrom produced
54 outside the state or within the state meet the standards and require-
55 ments of this article and can therefore be sold within the state;

1 9. Procedures for the granting, cancellation, revocation or suspension
2 of licenses, consistent with the state administrative procedures act;

3 10. Restrictions governing the advertising and marketing of cannabi-
4 noid hemp, hemp extract and products derived therefrom; and

5 11. Any other regulations necessary to implement this article.

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

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

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

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

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

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

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

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

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

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

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

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

4 2. The board may adopt regulations establishing what relevant informa-
5 tion shall be included on an application for licensure under this arti-
6 cle. Such information may include, but is not limited to: information
7 about the applicant's identity; ownership and investment information,
8 including the corporate structure; evidence of good moral character;
9 financial statements; information about the premises to be licensed;
10 information about the activities to be licensed; and any other relevant
11 information specified in regulation.

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

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

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

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

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

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

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

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

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

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

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

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

4 4. The board may only issue a renewal license upon receipt of the
5 specified renewal application and renewal fee from a licensee if, in
6 addition to the selection criteria set out in this article, the
7 licensee's license is not under suspension and has not been revoked.

8 § 99. Form of license. Licenses issued pursuant to this article shall
9 specify:

10 1. The name and address of the licensee;

11 2. The activities permitted by the license;

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

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

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

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

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

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

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

33 1. A material statement contained in an application is or was false or
34 misleading;

35 2. The applicant or licensee, or a person in a position of management
36 and control thereof or of the licensed activity, does not have good
37 moral character, necessary experience or competency, adequate facili-
38 ties, equipment, process controls, or security to process, distribute,
39 transport or sell cannabinoid hemp, hemp extract or products derived
40 therefrom;

41 3. After appropriate notice and opportunity, the applicant or licensee
42 has failed or refused to produce any records or provide any information
43 required by this article or the regulations promulgated pursuant there-
44 to;

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

47 5. The applicant or licensee, or any officer, director, partner, or
48 any other person exercising any position of management or control there-
49 of or of the licensed activity has willfully failed to comply with any
50 of the provisions of this article or regulations under it and other laws
51 of this state applicable to the licensed activity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 § 110. Special use permits. The board shall have the authority to
37 issue temporary permits for carrying on any activity related to cannabi-
38 noid hemp, hemp extract and products derived therefrom, licensed under
39 this article. The board may set reasonable fees for such permits, to
40 establish the periods during which such permits are valid, and to make
41 rules and regulations to implement this section.

42 § 111. Severability. If any provision of this article or the applica-
43 tion thereof to any person or circumstances is held invalid, such inva-
44 lidity shall not affect other provisions or applications of this article
45 which can be given effect without the invalid provision or application,
46 and to this end the provisions of this article are declared to be sever-
47 able.

48 ARTICLE 6
49 GENERAL PROVISIONS

50 Section 125. General prohibitions and restrictions.

51 126. License to be confined to premises licensed; premises for
52 which no license shall be granted; transporting cannabis.

53 127. Protections for the use of cannabis; unlawful discrimi-
54 nations prohibited.

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

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

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

30 3. No registered organization, licensee, or permittee or other entity
31 under the jurisdiction of the board shall employ, or permit to be
32 employed, or shall allow to work, on any premises registered or licensed
33 for retail sale hereunder, any person under the age of twenty-one years
34 in any capacity where the duties of such person require or permit such
35 person to sell, dispense or handle cannabis.

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

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

50 6. No registered organization, licensee, or permittee, or other entity
51 under the jurisdiction of the board, shall refuse, nor any person hold-
52 ing a registration, license, or permit refuse, nor any officer or direc-
53 tor of any corporation or organization holding a registration, license,
54 or permit refuse, to appear and/or testify under oath at an inquiry or
55 hearing held by the board, with respect to any matter bearing upon the
56 registration, license, or permit, the conduct of any people at the

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

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

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

18 9. It shall be unlawful for any person, partnership or corporation
19 operating a place for profit or pecuniary gain, with a capacity for the
20 assemblage of twenty or more persons to permit a person or persons to
21 come to the place of assembly for the purpose of cultivating, process-
22 ing, distributing, or retail distribution or sale of cannabis or canna-
23 bis products on said premises. This includes, but is not limited, to,
24 cannabis or cannabis products that are either provided by the operator
25 of the place of assembly, their agents, servants or employees, or canna-
26 bis that is brought onto said premises by the person or persons assembl-
27 ing at such place, unless an appropriate registration, license, or
28 permit has first been obtained from the board by the operator of said
29 place of assembly.

30 10. No adult-use cannabis or medical cannabis may be imported to, or
31 exported out of, New York state by a registered organization, licensee
32 or person holding a license and/or permit pursuant to this chapter,
33 until such time as it may become legal to do so under federal law.
34 Should it become legal to do so under federal law, the board may promul-
35 gate such rules and regulations as it deems necessary to protect the
36 public and the policy of the state, including to prioritize and promote
37 New York cannabis. Further, all such cannabis or cannabis products must
38 be distributed in a manner consistent with the provisions of this chap-
39 ter.

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

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

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

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

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

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

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

51 5. No registered organization, licensee or permittee shall transport
52 cannabis products or medical cannabis except in vehicles owned and oper-
53 ated by such registered organization, licensee or permittee, or hired
54 and operated by such registered organization, licensee or permittee from
55 a trucking or transportation company permitted and registered with the
56 board.

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

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

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

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

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

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

34 3. For the purposes of medical care, including organ transplants, a
35 certified patient's authorized use of medical cannabis must be consid-
36 ered the equivalent of the use of any other medication under the direc-
37 tion of a practitioner and does not constitute the use of an illicit
38 substance or otherwise disqualify a registered qualifying patient from
39 medical care.

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

50 (b) Employees whose usage of medical cannabis is governed by state or
51 local law or rules, or a collective bargaining agreement that: (i)
52 limits or prohibits the usage of cannabis while performing the employ-
53 ee's job duties; (ii) limits or prohibits the usage of cannabis as a
54 condition of attaining or maintaining a license, certification, or
55 professional status required for employment; or (iii) governs the test-
56 ing and disciplinary procedures related to the use of cannabis by

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

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

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

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

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

32 7. As used in this section, "adverse employment action" means refusing
33 to hire or employ, barring or discharging from employment, requiring a
34 person to retire from employment, or discriminating against in compen-
35 sation or in terms, conditions, or privileges of employment.

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

44 § 128. Permits, registrations and licenses. 1. No permit, registra-
45 tion or license shall be transferable or assignable except that notwith-
46 standing any other provision of law, the permit, registration or license
47 of a sole proprietor converting to corporate form, where such proprietor
48 becomes the sole stockholder and only officer and director of such new
49 corporation, may be transferred to the subject corporation if all
50 requirements of this chapter remain the same with respect to such
51 permit, registration or license as transferred and, further, the regis-
52 tered organization or licensee shall transmit to the board, within ten
53 days of the transfer of license allowable under this subdivision, on a
54 form prescribed by the board, notification of the transfer of such
55 license.

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

5 3. Permits, registrations and licenses issued under this chapter shall
6 contain, in addition to any further information or material to be
7 prescribed by the rules and regulations of the board, the following
8 information:

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

10 (b) type of license and what type of cannabis commerce is thereby
11 permitted;

12 (c) description by street and number, or otherwise, of licensed prem-
13 ises; and

14 (d) a statement in substance that such license shall not be deemed a
15 property or vested right, and that it may be revoked at any time pursu-
16 ant to law.

17 § 129. Laboratory testing permits. 1. The board shall approve and
18 permit one or more independent cannabis testing laboratories to test
19 medical cannabis, adult-use cannabis and/or cannabinoid hemp or hemp
20 extract.

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

25 (a) the owners and directors of the laboratory are of good moral char-
26 acter;

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

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

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

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

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

42 3. The owner of a laboratory testing permit under this section shall
43 not hold a permit, registration or license in any category of this chap-
44 ter and shall not have any direct or indirect ownership interest in such
45 registered organization or licensee. No board member, officer, manager,
46 owner, partner, principal stakeholder or member of a registered organ-
47 ization or licensee under this chapter, or such person's immediate fami-
48 ly member, shall have an interest or voting rights in any laboratory
49 testing permittee.

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

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

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

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

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

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

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

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

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

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

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

54 2. Any registered organization or licensee, who has received notifica-
55 tion of a registration or license suspension pursuant to the provisions
56 of this chapter, who sells cannabis, cannabis products, medical cannabis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 4. As used in this chapter, the existence of a sustained and continu-
17 ing pattern of misconduct, failure to adequately prevent diversion or
18 disorder on or about the premises may be presumed upon the sixth inci-
19 dent reported to the board by a law enforcement agency, or discovered by
20 the board during the course of any investigation, of misconduct, diver-
21 sion or disorder on or about the premises or related to the operation of
22 the premises, absent clear and convincing evidence of either fraudulent
23 intent on the part of any complainant or a factual error with respect to
24 the content of any report concerning such complaint relied upon by the
25 board.

26 5. Notwithstanding any other provision of this chapter to the contra-
27 ry, a suspension imposed under this section against the holder of a
28 registration issued pursuant to article three of this chapter, shall
29 only suspend the licensed activities related to the type of cannabis,
30 medical cannabis or adult-use cannabis involved in the violation result-
31 ing in the suspension.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (e) Refusal to approve alteration of premises.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 § 3302. Definitions of terms of general use in this article. Except
 30 where different meanings are expressly specified in subsequent
 31 provisions of this article, the following terms have the following mean-
 32 ings:

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

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

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

46 4. [~~"Concentrated Cannabis" means~~
 47 ~~(a) the separated resin, whether crude or purified, obtained from a~~
 48 ~~plant of the genus Cannabis; or~~
 49 ~~(b) a material, preparation, mixture, compound or other substance~~
 50 ~~which contains more than two and one half percent by weight of delta-9~~
 51 ~~tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering~~
 52 ~~system, or delta-1 tetrahydrocannabinol or its isomer, delta-1 (6) mono-~~
 53 ~~terpene numbering system.~~

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

1 ~~[6-]~~ 5. "Commissioner" means commissioner of health of the state of
2 New York.

3 ~~[7-]~~ 6. "Deliver" or "delivery" means the actual, constructive or
4 attempted transfer from one person to another of a controlled substance,
5 whether or not there is an agency relationship.

6 ~~[8-]~~ 7. "Department" means the department of health of the state of
7 New York.

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

12 ~~[10-]~~ 9. "Distribute" means to deliver a controlled substance, includ-
13 ing by means of the internet, other than by administering or dispensing.

14 ~~[11-]~~ 10. "Distributor" means a person who distributes a controlled
15 substance.

16 ~~[12-]~~ 11. "Diversion" means manufacture, possession, delivery or use
17 of a controlled substance by a person or in a manner not specifically
18 authorized by law.

19 ~~[13-]~~ 12. "Drug" means

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

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

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

28 ~~[14-]~~ 13. "Federal agency" means the Drug Enforcement Administration,
29 United States Department of Justice, or its successor agency.

30 ~~[15-]~~ 14. "Federal controlled substances act" means the Comprehensive
31 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and
32 any act or acts amendatory or supplemental thereto or regulations
33 promulgated thereunder.

34 ~~[16-]~~ 15. "Federal registration number" means such number assigned by
35 the Federal agency to any person authorized to manufacture, distribute,
36 sell, dispense or administer controlled substances.

37 ~~[17-]~~ 16. "Habitual user" means any person who is, or by reason of
38 repeated use of any controlled substance for non-legitimate or unlawful
39 use is in danger of becoming, dependent upon such substance.

40 ~~[18-]~~ 17. "Institutional dispenser" means a hospital, veterinary
41 hospital, clinic, dispensary, maternity home, nursing home, mental
42 hospital or similar facility approved and certified by the department as
43 authorized to obtain controlled substances by distribution and to
44 dispense and administer such substances pursuant to the order of a prac-
45 titioner.

46 ~~[19-]~~ 18. "License" means a written authorization issued by the
47 department or the New York state department of education permitting
48 persons to engage in a specified activity with respect to controlled
49 substances.

50 ~~[20-]~~ 19. "Manufacture" means the production, preparation, propa-
51 gation, compounding, cultivation, conversion or processing of a
52 controlled substance, either directly or indirectly or by extraction
53 from substances of natural origin, or independently by means of chemical
54 synthesis, or by a combination of extraction and chemical synthesis, and
55 includes any packaging or repackaging of the substance or labeling or
56 relabeling of its container, except that this term does not include the

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

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

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

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

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

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

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

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

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

27 ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced
28 directly or indirectly by extraction from substances of vegetable
29 origin, or independently by means of chemical synthesis, or by a combi-
30 nation of extraction and chemical synthesis:

31 (a) opium and opiate, and any salt, compound, derivative, or prepara-
32 tion of opium or opiate;

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

37 (c) opium poppy and poppy straw.

38 ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or
39 addiction-sustaining liability similar to morphine or being capable of
40 conversion into a drug having addiction-forming or addiction-sustaining
41 liability. It does not include, unless specifically designated as
42 controlled under section [~~3306~~] thirty-three hundred six of this [~~arti-~~
43 ~~cle~~] title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and
44 its salts (dextromethorphan). It does include its racemic and levorota-
45 tory forms.

46 ~~[24.]~~ 22. "Opium poppy" means the plant of the species *Papaver*
47 *somniferum* L., except its seeds.

48 ~~[25.]~~ 23. "Person" means individual, institution, corporation, govern-
49 ment or governmental subdivision or agency, business trust, estate,
50 trust, partnership or association, or any other legal entity.

51 ~~[26.]~~ 24. "Pharmacist" means any person licensed by the state depart-
52 ment of education to practice pharmacy.

53 ~~[27.]~~ 25. "Pharmacy" means any place registered as such by the New
54 York state board of pharmacy and registered with the Federal agency
55 pursuant to the federal controlled substances act.

1 ~~[28-]~~ 26. "Poppy straw" means all parts, except the seeds, of the
2 opium poppy, after mowing.

3 ~~[29-]~~ 27. "Practitioner" means:

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

11 ~~[30-]~~ 28. "Prescribe" means a direction or authorization, by
12 prescription, permitting an ultimate user lawfully to obtain controlled
13 substances from any person authorized by law to dispense such
14 substances.

15 ~~[31-]~~ 29. "Prescription" shall mean an official New York state
16 prescription, an electronic prescription, an oral prescription~~[7]~~ or an
17 out-of-state prescription~~[, or any one]~~.

18 ~~[32-]~~ 30. "Sell" means to sell, exchange, give or dispose of to anoth-
19 er, or offer or agree to do the same.

20 ~~[33-]~~ 31. "Ultimate user" means a person who lawfully obtains and
21 possesses a controlled substance for his own use or the use by a member
22 of his household or for an animal owned by him or in his custody. It
23 shall also mean and include a person designated, by a practitioner on a
24 prescription, to obtain such substance on behalf of the patient for whom
25 such substance is intended.

26 ~~[34-]~~ 32. "Internet" means collectively computer and telecommuni-
27 cations facilities which comprise the worldwide network of networks that
28 employ a set of industry standards and protocols, or any predecessor or
29 successor protocol to such protocol, to exchange information of all
30 kinds. "Internet," as used in this article, also includes other
31 networks, whether private or public, used to transmit information by
32 electronic means.

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

37 ~~[36-]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person
38 in the United States that sells, delivers or dispenses, or offers to
39 sell, deliver, or dispense, a controlled substance by means of the
40 internet.

41 ~~[37-]~~ 35. "Electronic prescription" means a prescription issued with
42 an electronic signature and transmitted by electronic means in accord-
43 ance with regulations of the commissioner and the commissioner of educa-
44 tion and consistent with federal requirements. A prescription generated
45 on an electronic system that is printed out or transmitted via facsimile
46 is not considered an electronic prescription and must be manually
47 signed.

48 ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-
49 trical, digital, magnetic, wireless, optical, electromagnetic or similar
50 capabilities. "Electronic" shall not include facsimile.

51 ~~[39-]~~ 37. "Electronic record" means a paperless record that is
52 created, generated, transmitted, communicated, received or stored by
53 means of electronic equipment and includes the preservation, retrieval,
54 use and disposition in accordance with regulations of the commissioner
55 and the commissioner of education and in compliance with federal law and
56 regulations.

1 ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or
 2 process, attached to or logically associated with an electronic record
 3 and executed or adopted by a person with the intent to sign the record,
 4 in accordance with regulations of the commissioner and the commissioner
 5 of education.

6 ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"
 7 means the prescription monitoring program registry established pursuant
 8 to section thirty-three hundred forty-three-a of this article.

9 ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
 10 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
 11 drug substance to create a drug with respect to an outsourcing facility
 12 under section 503B of the federal Food, Drug and Cosmetic Act and
 13 further defined in this section.

14 ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

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

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

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

21 Notwithstanding any other provision of law to the contrary, when an
 22 outsourcing facility distributes or dispenses any drug to any person
 23 pursuant to a prescription, such outsourcing facility shall be deemed to
 24 be providing pharmacy services and shall be subject to all laws, rules
 25 and regulations governing pharmacies and pharmacy services.

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

33 (13) ~~[Marihuana-~~

34 ~~(14)]~~ Mescaline.

35 ~~[(15)]~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
 36 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

37 ~~[(16)]~~ (15) Peyote. Meaning all parts of the plant presently classi-
 38 fied botanically as Lophophora williamsii Lemaire, whether growing or
 39 not, the seeds thereof, any extract from any part of such plant, and
 40 every compound, manufacture, salts, derivative, mixture, or preparation
 41 of such plant, its seeds or extracts.

42 ~~[(17)]~~ (16) N-ethyl-3-piperidyl benzilate.

43 ~~[(18)]~~ (17) N-methyl-3-piperidyl benzilate.

44 ~~[(19)]~~ (18) Psilocybin.

45 ~~[(20)]~~ (19) Psilocyn.

46 ~~[(21)]~~ (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
 47 derived from the cannabis plant that are equivalents of the substances
 48 contained in the plant, or in the resinous extractives of cannabis, sp.
 49 and/or synthetic substances, derivatives, and their isomers with similar
 50 chemical structure and pharmacological activity such as the following:

51 Δ delta 1 cis or trans tetrahydrocannabinol, and their optical
 52 isomers

53 Δ delta 6 cis or trans tetrahydrocannabinol, and their optical
 54 isomers

55 Δ delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
 56 isomers (since nomenclature of these substances is not internationally

1 standardized, compounds of these structures, regardless of numerical
2 designation of atomic positions covered).

3 [~~(22)~~] (21) Ethylamine analog of phencyclidine. Some trade or other
4 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
5 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

6 [~~(23)~~] (22) Pyrrolidine analog of phencyclidine. Some trade or other
7 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

8 [~~(24)~~] (23) Thiophene analog of phencyclidine. Some trade or other
9 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
10 phencyclidine, TPCP, TCP.

11 [~~(25)~~] (24) 3,4-methylenedioxyamphetamine (MDMA).

12 [~~(26)~~] (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
13 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
14 MDE, MDEA.

15 [~~(27)~~] (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
16 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
17 N-hydroxy MDA.

18 [~~(28)~~] (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other
19 names: TCPY.

20 [~~(29)~~] (28) Alpha-ethyltryptamine. Some trade or other names:
21 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
22 3-(2-aminobutyl) indole; Alpha-ET or AET.

23 [~~(30)~~] (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
24 names: DOET.

25 [~~(31)~~] (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
26 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
27 DOB; 2C-B, Nexus.

28 [~~(32)~~] (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
29 optical isomers, salts and salts of isomers.

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

33 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
34 any other matter or substance which contains tobacco or [~~marihuana~~]
35 cannabis as defined in section [~~thirty three hundred two of this~~
36 ~~chapter~~] 222.00 of the penal law.

37 § 5-a. Section 1399-q of the public health law, as amended by chapter
38 335 of the laws of 2017, is amended to read as follows:

39 § 1399-q. Smoking and vaping restrictions inapplicable. 1. This
40 article shall not apply to:

41 [~~1-~~] (a) Private homes[~~7~~] and private residences [~~and private~~
42 ~~automobiles~~];

43 [~~2-~~] (b) Private automobiles;

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

45 [~~3-~~] (d) Retail tobacco businesses;

46 [~~4-~~] (e) Membership associations; provided, however, that smoking and
47 vaping shall only be allowed in membership associations in which all of
48 the duties with respect to the operation of such association, including,
49 but not limited to, the preparation of food and beverages, the service
50 of food and beverages, reception and secretarial work, and the security
51 services of the membership association are performed by members of such
52 membership association who do not receive compensation of any kind from
53 the membership association or any other entity for the performance of
54 such duties;

55 [~~5-~~] (f) Cigar bars that, in the calendar year ending December
56 thirty-first, two thousand two, generated ten percent or more of its

1 total annual gross income from the on-site sale of tobacco products and
2 the rental of on-site humidors, not including any sales from vending
3 machines, and is registered with the appropriate enforcement officer, as
4 defined in subdivision one of section thirteen hundred ninety-nine-t of
5 this article. Such registration shall remain in effect for one year and
6 shall be renewable only if: (a) in the preceding calendar year, the
7 cigar bar generated ten percent or more of its total annual gross income
8 from the on-site sale of tobacco products and the rental of on-site
9 humidors, and (b) the cigar bar has not expanded its size or changed its
10 location from its size or location since December thirty-first, two
11 thousand two;

12 ~~[6-]~~ (g) Outdoor dining areas of food service establishments with no
13 roof or other ceiling enclosure; provided, however, that smoking and
14 vaping may be permitted in a contiguous area designated for smoking and
15 vaping so long as such area: (a) constitutes no more than twenty-five
16 percent of the outdoor seating capacity of such food service establish-
17 ment, (b) is at least three feet away from the outdoor area of such food
18 service establishment not designated for smoking and vaping, and (c) is
19 clearly designated with written signage as a smoking and vaping area;

20 ~~[7-]~~ (h) Enclosed rooms in food service establishments, bars, catering
21 halls, convention halls, hotel and motel conference rooms, and other
22 such similar facilities during the time such enclosed areas or rooms are
23 being used exclusively for functions where the public is invited for the
24 primary purpose of promoting and sampling tobacco products or electronic
25 cigarettes, and the service of food and drink is incidental to such
26 purpose, provided that the sponsor or organizer gives notice in any
27 promotional material or advertisements that smoking and vaping will not
28 be restricted, and prominently posts notice at the entrance of the
29 facility and has provided notice of such function to the appropriate
30 enforcement officer, as defined in subdivision one of section thirteen
31 hundred ninety-nine-t of this article, at least two weeks prior to such
32 function. The enforcement officer shall keep a record of all tobacco
33 sampling events, and such record shall be made available for public
34 inspection. No such facility shall permit smoking and vaping under this
35 subdivision for more than two days in any calendar year; ~~and~~

36 ~~8-~~ (i) Retail electronic cigarette stores, provided however, that
37 such stores may only permit the use of electronic cigarettes~~[-]~~; ~~and~~
38 (j) Adult-use on-site consumption premises authorized pursuant to
39 article four of the cannabis law, provided however, that such locations
40 may only permit the smoking or vaping of cannabis.

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

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

45 § 6-a. Article 33-B of the public health law is REPEALED.

46 § 6-b. The commissioner of health and the cannabis control board shall
47 work in conjunction to expeditiously transfer the oversight of the
48 medical use of cannabis to ensure continuity of care, and the responsi-
49 bility for regulation of cannabinoid hemp and hemp extract, from the
50 department of health to the office of cannabis management. For the
51 purposes of this section continuity of care shall include, but not be
52 limited to, a certified patient's ability to engage in the lawful
53 medical use of cannabis, and a registered organization's ability to
54 conduct its lawful operations.

55 § 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs
56 (a) and (b) of subdivision 11 of section 1311 of the civil practice law

1 and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added
2 by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdivi-
3 sion 11 as amended by section 47 of part A1 of chapter 56 of the laws
4 of 2010, are amended to read as follows:

5 (d) In a forfeiture action commenced by a claiming authority against a
6 defendant, the following rebuttable presumption shall apply: all curren-
7 cy or negotiable instruments payable to the bearer shall be presumed to
8 be the proceeds of a pre-conviction forfeiture crime when such currency
9 or negotiable instruments are (i) found in close proximity to a
10 controlled substance unlawfully possessed by the defendant in an amount
11 sufficient to constitute a violation of section 220.18 or 220.21 of the
12 penal law, or (ii) found in close proximity to any quantity of a
13 controlled substance [~~or marihuana~~] unlawfully possessed by such defend-
14 ant in a room, other than a public place, under circumstances evincing
15 an intent to unlawfully mix, compound, distribute, package or otherwise
16 prepare for sale such controlled substance [~~or marihuana~~].

17 3-a. Conviction of a person in a criminal action upon an accusatory
18 instrument which includes one or more of the felonies specified in
19 subdivision four-b of section thirteen hundred ten of this article, of
20 any felony other than such felonies, shall not preclude a defendant, in
21 any subsequent proceeding under this article where that conviction is at
22 issue, from adducing evidence that the conduct underlying the conviction
23 would not establish the elements of any of the felonies specified in
24 such subdivision other than the one to which the criminal defendant pled
25 guilty. If the defendant does adduce such evidence, the burden shall be
26 upon the claiming authority to prove, by clear and convincing evidence,
27 that the conduct underlying the criminal conviction would establish the
28 elements of the felony specified in such subdivision. Nothing contained
29 in this subdivision shall affect the validity of a settlement of any
30 forfeiture action negotiated between the claiming authority and a crimi-
31 nal defendant contemporaneously with the taking of a plea of guilty in a
32 criminal action to any felony defined in article two hundred twenty [~~or~~
33 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to
34 commit the same.

35 (a) Any stipulation or settlement agreement between the parties to a
36 forfeiture action shall be filed with the clerk of the court in which
37 the forfeiture action is pending. No stipulation or settlement agreement
38 shall be accepted for filing unless it is accompanied by an affidavit
39 from the claiming authority that written notice of the stipulation or
40 settlement agreement, including the terms of such, has been given to the
41 office of victim services, the state division of criminal justice
42 services [~~, and in the case of a forfeiture based on a felony defined in~~
43 ~~article two hundred twenty or section 221.30 or 221.55 of the penal law,~~
44 ~~to the state division of substance abuse services~~].

45 (b) No judgment or order of forfeiture shall be accepted for filing
46 unless it is accompanied by an affidavit from the claiming authority
47 that written notice of judgment or order, including the terms of such,
48 has been given to the office of victim services, the state division of
49 criminal justice services [~~, and in the case of a forfeiture based on a~~
50 ~~felony defined in article two hundred twenty or section 221.30 or 221.55~~
51 ~~of the penal law, to the state division of substance abuse services~~].

52 § 8. Subdivision 1 of section 3397-b of the public health law, as
53 added by chapter 810 of the laws of 1980, is amended to read as follows:

54 1. [~~"Marijuana"~~] "Cannabis" means [~~marijuana~~] cannabis as defined in
55 [~~section thirty three hundred two of this chapter~~] section 222.00 of the

1 penal law and shall also include tetrahydrocannabinols or a chemical
2 derivative of tetrahydrocannabinol.

3 § 9. Section 114-a of the vehicle and traffic law, as added by chapter
4 163 of the laws of 1973, is amended to read as follows:

5 § 114-a. Drug. The term "drug" when used in this chapter, means and
6 includes any substance listed in section thirty-three hundred six of the
7 public health law and cannabis and concentrated cannabis as defined in
8 section 222.00 of the penal law.

9 § 9-a. Subdivision 1 of section 1192 of the vehicle and traffic law,
10 as added by chapter 47 of the laws of 1988, is amended to read as
11 follows:

12 1. Driving while ability impaired. a. No person shall operate a motor
13 vehicle while the person's ability to operate such motor vehicle is
14 impaired by the consumption of alcohol.

15 b. No person shall operate a motor vehicle while the person's ability
16 to operate such motor vehicle is impaired by the use of cannabis or
17 concentrated cannabis as defined in section 222.00 of the penal law.

18 § 9-b. Paragraph (a) of subdivision 2 of section 49-a of the naviga-
19 tion law, as amended by chapter 239 of the laws of 2016, is amended to
20 read as follows:

21 (a) (1) No person shall operate a vessel upon the waters of the state
22 while his or her ability to operate such vessel is impaired by the
23 consumption of alcohol. (2) No person shall operate a vessel upon the
24 waters of the state while his or her ability to operate such vessel is
25 impaired by the use of cannabis or concentrated cannabis as defined in
26 section 222.00 of the penal law.

27 (a-1) (1) A violation of paragraph (a) of this subdivision shall be an
28 offense and shall be punishable by a fine of not less than three hundred
29 dollars nor more than five hundred dollars, or by imprisonment in a
30 penitentiary or county jail for not more than fifteen days, or by both
31 such fine and imprisonment. (2) A person who operates a vessel in
32 violation of paragraph (a) of this subdivision after being convicted of
33 a violation of any subdivision of this section within the preceding five
34 years shall be punished by a fine of not less than five hundred dollars
35 nor more than seven hundred fifty dollars, or by imprisonment of not
36 more than thirty days in a penitentiary or county jail or by both such
37 fine and imprisonment. (3) A person who operates a vessel in violation
38 of paragraph (a) of this subdivision after being convicted two or more
39 times of a violation of any subdivision of this section within the
40 preceding ten years shall be guilty of a misdemeanor, and shall be
41 punished by a fine of not less than seven hundred fifty dollars nor more
42 than fifteen hundred dollars, or by imprisonment of not more than one
43 hundred eighty days in a penitentiary or county jail or by both such
44 fine and imprisonment.

45 § 9-c. Subdivision 5-a of section 49-a of the navigation law, as added
46 by chapter 239 of the laws of 2016, is amended to read as follows:

47 5-a. Sentencing; previous convictions. When sentencing a person for a
48 violation of paragraph (b), (c), (d) or (e) of subdivision two of this
49 section pursuant to subparagraph two of paragraph (f) of subdivision two
50 of this section, the court shall consider any prior convictions the
51 person may have for a violation of subdivision two, two-a, three, four,
52 or four-a of section eleven hundred ninety-two of the vehicle and traf-
53 fic law within the preceding ten years. When sentencing a person for a
54 violation of paragraph (b), (c), (d) or (e) of subdivision two of this
55 section pursuant to subparagraph three of paragraph (f) of subdivision
56 two of this section, the court shall consider any prior convictions the

1 person may have for a violation of subdivision two, two-a, three, four,
 2 or four-a of section eleven hundred ninety-two of the vehicle and traf-
 3 fic law within the preceding ten years. When sentencing a person for a
 4 violation of subparagraph two of paragraph [~~(a)~~] (a-1) of subdivision
 5 two of this section, the court shall consider any prior convictions the
 6 person may have for a violation of any subdivision of section eleven
 7 hundred ninety-two of the vehicle and traffic law within the preceding
 8 five years. When sentencing a person for a violation of subparagraph
 9 three of paragraph [~~(a)~~] (a-1) of subdivision two of this section, the
 10 court shall consider any prior convictions the person may have for a
 11 violation of any subdivision of section eleven hundred ninety-two of the
 12 vehicle and traffic law within the preceding ten years.

13 § 9-d. Paragraph (a) of subdivision 1 of section 25.24 of the parks,
 14 recreation and historic preservation law, as amended by chapter 311 of
 15 the laws of 2007, is amended to read as follows:

16 (a) (1) No person shall operate a snowmobile upon a street, highway,
 17 public trails, lands, bodies of water, or private property of another
 18 while his or her ability to operate such snowmobile is impaired by the
 19 consumption of alcohol. (2) No person shall operate a snowmobile upon a
 20 street, highway, public trails, lands, bodies of water, or private prop-
 21 erty of another while his or her ability to operate such snowmobile is
 22 impaired by the use of cannabis or concentrated cannabis as defined in
 23 section 222.00 of the penal law. (3) A violation of this subdivision
 24 shall be an offense and shall be punishable by a fine of not less than
 25 two hundred fifty dollars nor more than three hundred fifty dollars, or
 26 by imprisonment in a penitentiary or county jail for not more than
 27 fifteen days, or by both such fine and imprisonment. A person who oper-
 28 ates a snowmobile in violation of this subdivision after being convicted
 29 of a violation of any subdivision of this section within the preceding
 30 five years shall be punished by a fine of not less than five hundred
 31 dollars nor more than fifteen hundred dollars, or by imprisonment of not
 32 more than thirty days in a penitentiary or county jail or by both such
 33 fine and imprisonment.

34 § 10. Subdivision 9 of section 220.00 of the penal law, as amended by
 35 chapter 664 of the laws of 1985, is amended to read as follows:

36 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~
 37 ~~I(d)~~] paragraphs (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18),
 38 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-
 39 three hundred six of the public health law.

40 § 10-a. Subdivision 5 of section 220.00 of the penal law, as amended
 41 by chapter 537 of the laws of 1998, is amended to read as follows:

42 5. "Controlled substance" means any substance listed in schedule I,
 43 II, III, IV or V of section thirty-three hundred six of the public
 44 health law [~~other than marihuana, but including concentrated cannabis as~~
 45 ~~defined in paragraph (a) of subdivision four of section thirty-three~~
 46 ~~hundred two of such law~~].

47 § 11. Subdivision 4 of section 220.06 of the penal law is REPEALED.

48 § 12. Subdivision 10 of section 220.09 of the penal law is REPEALED.

49 § 13. Subdivision 3 of section 220.34 of the penal law is REPEALED.

50 § 14. Subdivision 6 of section 220.00 of the penal law is REPEALED.

51 § 15. Article 221 of the penal law is REPEALED.

52 § 16. The penal law is amended by adding a new article 222 to read as
 53 follows:

54 ARTICLE 222

55 CANNABIS

56 Section 222.00 Cannabis; definitions.

1 222.05 Personal use of cannabis.

2 222.10 Restrictions on cannabis use.

3 222.15 Personal cultivation of cannabis.

4 222.20 Licensing of cannabis production and distribution;
5 defense.

6 222.25 Unlawful possession of cannabis.

7 222.30 Criminal possession of cannabis in the third degree.

8 222.35 Criminal possession of cannabis in the second degree.

9 222.40 Criminal possession of cannabis in the first degree.

10 222.45 Unlawful sale of cannabis.

11 222.50 Criminal sale of cannabis in the third degree.

12 222.55 Criminal sale of cannabis in the second degree.

13 222.60 Criminal sale of cannabis in the first degree.

14 222.65 Aggravated criminal sale of cannabis.

15 § 222.00 Cannabis; definitions.

16 1. "Cannabis" means all parts of the plant of the genus Cannabis,
17 whether growing or not; the seeds thereof; the resin extracted from any
18 part of the plant; and every compound, manufacture, salt, derivative,
19 mixture, or preparation of the plant, its seeds or resin. It does not
20 include the mature stalks of the plant, fiber produced from the stalks,
21 oil or cake made from the seeds of the plant, any other compound, manu-
22 facture, salt, derivative, mixture, or preparation of the mature stalks
23 (except the resin extracted therefrom), fiber, oil, or cake, or the
24 sterilized seed of the plant which is incapable of germination. It does
25 not include hemp, cannabinoid hemp or hemp extract as defined in section
26 three of the cannabis law.

27 2. "Concentrated cannabis" means:

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

30 (b) a material, preparation, mixture, compound or other substance
31 which contains more than three percent by weight of delta-9 tetrahydro-
32 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or
33 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene
34 numbering system.

35 3. For the purposes of this article, "sell" shall mean to sell,
36 exchange or dispose of for compensation. "Sell" shall not include the
37 transfer of cannabis or concentrated cannabis between persons twenty-one
38 years of age or older without compensation in the quantities authorized
39 in paragraph (b) of subdivision one of section 222.05 of this article.

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

42 § 222.05 Personal use of cannabis.

43 Notwithstanding any other provision of law to the contrary:

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

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

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

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

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

4 (f) assisting another person who is twenty-one years of age or older,
5 or allowing property to be used, in any of the acts described in para-
6 graphs (a) through (e) of this subdivision.

7 2. Cannabis, concentrated cannabis, cannabis paraphernalia or concen-
8 trated cannabis paraphernalia involved in any way with conduct deemed
9 lawful by this section are not contraband nor subject to seizure or
10 forfeiture of assets under article four hundred eighty of this chapter,
11 section thirteen hundred eleven of the civil practice law and rules, or
12 other applicable law, and no conduct deemed lawful by this section shall
13 constitute the basis for approach, search, seizure, arrest or detention.

14 3. Except as provided in subdivision four of this section, none of the
15 following shall, individually or in combination with each other, consti-
16 tute reasonable suspicion of a crime or be used as evidence of probable
17 cause in any criminal proceeding against a defendant twenty-one years of
18 age or older:

19 (a) the odor of cannabis or of burnt cannabis;

20 (b) the possession of or the suspicion of possession of cannabis or
21 concentrated cannabis in the amounts authorized in this section;

22 (c) the possession of multiple containers of cannabis without evidence
23 of possession of more than three ounces of cannabis or twenty-four grams
24 of concentrated cannabis;

25 (d) the presence of cash or currency in proximity to cannabis or
26 concentrated cannabis; or

27 (d) the planting, cultivating, harvesting, drying, processing or
28 possessing cultivated cannabis in accordance with section 222.15 of this
29 article.

30 4. Subdivision three of this section shall not apply when a law
31 enforcement officer is investigating: (a) an alleged offense pursuant to
32 this article; or (b) whether a person is operating a motor vehicle,
33 vessel or snowmobile while impaired by cannabis or concentrated cannabis
34 as defined in section 222.00 of this article or drugs or the combined
35 influence of drugs or of alcohol and any drug or drugs in violation of
36 paragraph (b) of subdivision one, subdivision four or subdivision four-a
37 of section eleven hundred ninety-two of the vehicle and traffic law, or
38 subparagraph two of paragraph (a) or paragraph (e) of subdivision two of
39 section forty-nine-a of the navigation law, or subparagraph two of para-
40 graph (a) or paragraph (d) of subdivision one of section 25.24 of the
41 parks, recreation and historic preservation law.

42 § 222.10 Restrictions on cannabis use.

43 Unless otherwise authorized by law or regulation, no person shall:

44 1. smoke or vape cannabis in a location where smoking or vaping canna-
45 bis is prohibited pursuant to article thirteen-E of the public health
46 law; or

47 2. possess, smoke, vape or ingest cannabis or concentrated cannabis in
48 or upon the grounds of a school, as defined in subdivision ten of
49 section eleven hundred twenty-five of the education law or in or on a
50 school bus, as defined in section one hundred forty-two of the vehicle
51 and traffic law; provided, however, provisions of this subdivision shall
52 not apply to acts that are in compliance with article three of the
53 cannabis law.

54 Violations of restrictions on cannabis use are subject to a civil
55 penalty not exceeding twenty-five dollars or an amount of community
56 service not exceeding twenty hours.

1 § 222.15 Personal cultivation of cannabis.

2 1. Notwithstanding the provisions of section thirty-three hundred
3 eighty-two of the public health law, and unless otherwise authorized by
4 law or regulation, no person may:

5 (a) plant, cultivate, harvest, dry, process or possess more than six
6 mature cannabis plants at any one time; or

7 (b) plant, cultivate, harvest, dry, process or possess, within his or
8 her private residence, or on the grounds of his or her private resi-
9 dence, more than six mature cannabis plants at any one time; or

10 (c) being under the age of twenty-one, plant, cultivate, harvest, dry,
11 process or possess cannabis plants.

12 2. Any mature cannabis plant described in paragraph (a) or (b) of
13 subdivision one of this section, and any cannabis produced by any such
14 cannabis plant or plants in excess of three ounces, cultivated,
15 harvested, dried, processed or possessed pursuant to paragraph (a) or
16 (b) of subdivision one of this section shall, unless otherwise author-
17 ized by law or regulation, be stored except for incidental periods with-
18 in such person's private residence or storage space or on the grounds of
19 such person's private residence or storage space. Such person shall take
20 reasonable steps designed to assure that such cultivated cannabis is in
21 a secured place.

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

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

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

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

35 § 222.20 Licensing of cannabis production and distribution; defense.

36 In any prosecution for an offense involving cannabis under this arti-
37 cle or an authorized local law, it is a defense that the defendant was
38 engaged in such activity in compliance with the cannabis law.

39 § 222.25 Unlawful possession of cannabis.

40 A person is guilty of unlawful possession of cannabis when he or she
41 knowingly and unlawfully possesses cannabis and such cannabis weighs
42 more than three ounces or concentrated cannabis and such concentrated
43 cannabis weighs more than twenty-four grams.

44 Unlawful possession of cannabis is a violation punishable by a fine of
45 not more than one hundred twenty-five dollars.

46 § 222.30 Criminal possession of cannabis in the third degree.

47 A person is guilty of criminal possession of cannabis in the third
48 degree when he or she knowingly and unlawfully possesses:

49 1. cannabis and such cannabis weighs more than sixteen ounces; or

50 2. concentrated cannabis and such concentrated cannabis weighs more
51 than five ounces.

52 Criminal possession of cannabis in the third degree is a class A
53 misdemeanor.

54 § 222.35 Criminal possession of cannabis in the second degree.

55 A person is guilty of criminal possession of cannabis in the second
56 degree when he or she knowingly and unlawfully possesses:

1 1. cannabis and such cannabis weighs more than five pounds; or
2 2. concentrated cannabis and such concentrated cannabis weighs more
3 than two pounds.

4 Criminal possession of cannabis in the second degree is a class E
5 felony.

6 § 222.40 Criminal possession of cannabis in the first degree.

7 A person is guilty of criminal possession of cannabis in the first
8 degree when he or she knowingly and unlawfully possesses:

9 1. cannabis and such cannabis weighs more than ten pounds; or
10 2. concentrated cannabis and such concentrated cannabis weighs more
11 than four pounds.

12 Criminal possession of cannabis in the first degree is a class D felo-
13 ny.

14 § 222.45 Unlawful sale of cannabis.

15 A person is guilty of unlawful sale of cannabis when he or she know-
16 ingly and unlawfully sells cannabis or concentrated cannabis.

17 Unlawful sale of cannabis is a violation punishable by a fine of not
18 more than two hundred fifty dollars.

19 § 222.50 Criminal sale of cannabis in the third degree.

20 A person is guilty of criminal sale of cannabis in the third degree
21 when:

22 1. he or she knowingly and unlawfully sells more than three ounces of
23 cannabis or more than twenty-four grams of concentrated cannabis; or

24 2. being twenty-one years of age or older, he or she knowingly and
25 unlawfully sells or gives, or causes to be given or sold, cannabis or
26 concentrated cannabis to a person less than twenty-one years of age;
27 except that in any prosecution under this subdivision, it is a defense
28 that the defendant was less than three years older than the person under
29 the age of twenty-one at the time of the offense. This subdivision shall
30 not apply to designated caregivers, practitioners, employees of a regis-
31 tered organization or employees of a designated caregiver facility
32 acting in compliance with article three of the cannabis law.

33 Criminal sale of cannabis in the third degree is a class A misdemea-
34 nor.

35 § 222.55 Criminal sale of cannabis in the second degree.

36 A person is guilty of criminal sale of cannabis in the second degree
37 when:

38 1. he or she knowingly and unlawfully sells more than sixteen ounces
39 of cannabis or more than five ounces of concentrated cannabis; or

40 2. being twenty-one years of age or older, he or she knowingly and
41 unlawfully sells or gives, or causes to be given or sold, more than
42 three ounces of cannabis or more than twenty-four grams of concentrated
43 cannabis to a person less than eighteen years of age. This subdivision
44 shall not apply to designated caregivers, practitioners, employees of a
45 registered organization or employees of a designated caregiver facility
46 acting in compliance with article three of the cannabis law.

47 Criminal sale of cannabis in the second degree is a class E felony.

48 § 222.60 Criminal sale of cannabis in the first degree.

49 A person is guilty of criminal sale of cannabis in the first degree
50 when he or she knowingly and unlawfully sells more than five pounds of
51 cannabis or more than two pounds of concentrated cannabis.

52 Criminal sale of cannabis in the first degree is a class D felony.

53 § 222.65 Aggravated criminal sale of cannabis.

54 A person is guilty of aggravated criminal sale of cannabis when he or
55 she knowingly and unlawfully sells cannabis or concentrated cannabis
56 weighing one hundred pounds or more.

1 Aggravated criminal sale of cannabis is a class C felony.

2 § 17. Paragraph (k) of subdivision 3 of section 160.50 of the criminal
3 procedure law, as amended by chapter 132 of the laws of 2019, is amended
4 to read as follows:

5 (k) (i) The conviction was for a violation of article two hundred
6 twenty or section 240.36 of the penal law prior to the effective date of
7 article two hundred twenty-one of the penal law, and the sole controlled
8 substance involved was marihuana and the conviction was only for a
9 misdemeanor and/or violation [~~or violations~~]; or

10 (ii) the conviction is for an offense defined in section 221.05 or
11 221.10 of the penal law prior to the effective date of [~~the~~] chapter one
12 hundred thirty-two of the laws of two thousand nineteen [~~that amended~~
13 ~~this paragraph~~]; or

14 (iii) the conviction is for an offense defined in [~~section~~] former
15 sections 221.05 [~~or~~], 221.10, 221.15, 221.20, 221.35, or 221.40 of the
16 penal law; or

17 (iv) the conviction was for a violation of section 220.03 or 220.06 of
18 the penal law prior to the effective date of the chapter of the laws of
19 two thousand twenty-one that amended this paragraph, and the sole
20 controlled substance involved was concentrated cannabis; or

21 (v) the conviction is for an offense defined in sections 222.10,
22 222.15, 222.25 or 222.45 of the penal law.

23 No defendant shall be required or permitted to waive eligibility for
24 sealing or expungement pursuant to this section as part of a plea of
25 guilty, sentence or any agreement related to a conviction for a
26 violation of [~~section 221.05~~] sections 222.10, 222.15, 222.25 or
27 [~~section 221.10~~] 222.45 of the penal law and any such waiver shall be
28 deemed void and wholly unenforceable.

29 § 18. Paragraph (k) of subdivision 1 of section 440.10 of the criminal
30 procedure law, as added by chapter 132 of the laws of 2019, is amended
31 to read as follows:

32 (k) The judgment occurred prior to the effective date of the laws of
33 two thousand twenty-one that amended this paragraph and is a conviction
34 for an offense as defined in subparagraphs (i) [~~or~~], (ii), (iii) or (iv)
35 of paragraph (k) of subdivision three of section 160.50 of this part, in
36 which case the court shall presume that a conviction by plea for the
37 aforementioned offenses was not knowing, voluntary and intelligent if it
38 has severe or ongoing consequences, including but not limited to poten-
39 tial or actual immigration consequences, and shall presume that a
40 conviction by verdict for the aforementioned offenses constitutes cruel
41 and unusual punishment under section five of article one of the state
42 constitution, based on those consequences. The people may rebut these
43 presumptions.

44 § 19. Intentionally omitted.

45 § 20. Intentionally omitted.

46 § 21. Intentionally omitted.

47 § 22. Subdivision 1 of section 170.56 of the criminal procedure law,
48 as amended by chapter 360 of the laws of 1977, is amended to read as
49 follows:

50 1. Upon or after arraignment in a local criminal court upon an infor-
51 mation, a prosecutor's information or a misdemeanor complaint, where the
52 sole remaining count or counts charge a violation or violations of
53 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 220.10, 222.15,
54 222.25, 222.30, 222.45 or 222.50 of the penal law, or upon summons for a
55 nuisance offense under section sixty-five-c of the alcoholic beverage
56 control law and before the entry of a plea of guilty thereto or

1 commencement of a trial thereof, the court, upon motion of a defendant,
2 may order that all proceedings be suspended and the action adjourned in
3 contemplation of dismissal, or upon a finding that adjournment would not
4 be necessary or appropriate and the setting forth in the record of the
5 reasons for such findings, may dismiss in furtherance of justice the
6 accusatory instrument; provided, however, that the court may not order
7 such adjournment in contemplation of dismissal or dismiss the accusatory
8 instrument if: (a) the defendant has previously been granted such
9 adjournment in contemplation of dismissal, or (b) the defendant has
10 previously been granted a dismissal under this section, or (c) the
11 defendant has previously been convicted of any offense involving
12 controlled substances, or (d) the defendant has previously been
13 convicted of a crime and the district attorney does not consent or (e)
14 the defendant has previously been adjudicated a youthful offender on the
15 basis of any act or acts involving controlled substances and the
16 district attorney does not consent. Notwithstanding the limitations set
17 forth in this subdivision, the court may order that all proceedings be
18 suspended and the action adjourned in contemplation of dismissal based
19 upon a finding of exceptional circumstances. For purposes of this subdivi-
20 sion, exceptional circumstances exist when, regardless of the ultimate
21 disposition of the case, the entry of a plea of guilty is likely to
22 result in severe or ongoing consequences, including, but not limited to,
23 potential or actual immigration consequences.

24 § 23. Intentionally omitted.

25 § 24. The criminal procedure law is amended by adding a new section
26 440.46-a to read as follows:

27 § 440.46-a Motion for resentence; persons convicted of certain marihuana
28 offenses.

29 1. When a person is serving a sentence for a conviction in this state,
30 whether by trial verdict or guilty plea, under former article two
31 hundred twenty-one of the penal law, and such person's conduct as
32 alleged in the accusatory instrument and/or shown by the guilty plea or
33 trial verdict would not have been a crime under article two hundred
34 twenty-two of the penal law, had such article two hundred twenty-two
35 rather than former article two hundred twenty-one of the penal law been
36 in effect at the time of such conduct, then the chief administrative
37 judge of the state of New York shall, in accordance with this section,
38 automatically vacate, dismiss and expunge such conviction in accordance
39 with section 160.50 of this chapter, and the office of court adminis-
40 tration shall immediately notify the state division of criminal justice
41 services, state department of corrections and community supervision and
42 the appropriate local correctional facility which shall immediately
43 effectuate the appropriate relief. Such notification to the division of
44 criminal justice services shall also direct that such agency notify all
45 relevant police and law enforcement agencies of their duty to destroy
46 and/or mark records related to such case in accordance with section
47 160.50 of this chapter. Nothing in this section shall prevent a person
48 who believes his or her sentence is required by this section to be
49 vacated, dismissed and/or expunged from filing a petition with the court
50 to effectuate all appropriate relief.

51 2. (a) When a person is serving or has completed serving a sentence
52 for a conviction in this state, whether by trial verdict or guilty plea,
53 under former article two hundred twenty-one of the penal law, and such
54 person's conduct as alleged in the accusatory instrument and/or shown by
55 the guilty plea or trial verdict, or shown by other information: (i)
56 would not have been a crime under article two hundred twenty-two of the

1 penal law, had such article two hundred twenty-two rather than former
2 article two hundred twenty-one of the penal law been in effect at the
3 time of such conduct; or (ii) under such circumstances such person would
4 have been guilty of a lesser or potentially less onerous offense under
5 such article two hundred twenty-two than such former article two hundred
6 twenty-one of the penal law; then such person may petition the court of
7 conviction pursuant to this article for vacatur of such conviction.

8 (b) Upon receiving a served and filed motion under paragraph (a) of
9 this subdivision, the court shall presume the movant satisfies the
10 criteria in such paragraph (a) and shall grant the motion to vacate such
11 conviction unless the party opposing the motion proves, by clear and
12 convincing evidence, that the movant does not satisfy the criteria. If
13 the movant satisfies the criteria, the court shall grant the motion to
14 vacate the conviction: (i) if the conviction was by plea of guilty, on
15 grounds that such plea was not knowing, voluntary and intelligent owing
16 to ongoing consequences; and (ii) if the conviction was by verdict or
17 otherwise, on grounds that such conviction and sentence constitutes
18 cruel and unusual punishment under the state constitution owing to such
19 ongoing consequences; and may, if the petition meets the criteria in
20 subparagraph (i) of paragraph (a) of this subdivision, after affording
21 the parties an opportunity to be heard and present evidence, substitute,
22 unless it is not in the interests of justice to do so, a conviction for
23 an appropriate lesser offense under article two hundred twenty-two of
24 the penal law.

25 (c) In the event of any vacatur and/or substitution pursuant to this
26 subdivision, the office of court administration shall immediately notify
27 the state division of criminal justice services concerning such determi-
28 nation. Such notification to the division of criminal justice services
29 shall also direct that such agency notify all relevant police and law
30 enforcement agencies of their duty to destroy and/or mark records
31 related to such case in accordance with section 160.50 of this chapter
32 or, where conviction for a crime is substituted pursuant to this subdi-
33 vision, update such agencies' records accordingly.

34 3. Under no circumstances may substitution under this section result
35 in the imposition of a term of imprisonment or sentencing term, obli-
36 gation or condition that is in any way either harsher than the original
37 sentence or harsher than the sentence authorized for any substituted
38 lesser offense.

39 4. (a) If the judge who originally sentenced the movant for such
40 offense is not reasonably available, then the presiding judge for such
41 court shall designate another judge authorized to act in the appropriate
42 jurisdiction to determine the petition or application.

43 (b) Unless requested by the movant, no hearing is necessary to grant
44 an application filed under subdivision two of this section.

45 (c) When a felony conviction is vacated pursuant to this section and a
46 lesser offense that is a misdemeanor or violation is substituted for
47 such conviction, such lesser offense shall be considered a misdemeanor
48 or violation, as the case may be, for all purposes. When a misdemeanor
49 conviction is vacated pursuant to this section and a lesser offense that
50 is a violation is substituted for such conviction, such lesser offense
51 shall be considered a violation for all purposes.

52 (d) Nothing in this section is intended to or shall diminish or abro-
53 gate any rights or remedies otherwise available to a defendant, peti-
54 tioner or applicant. Relief under this section is available notwith-
55 standing that the judgment was for a violation of former sections
56 221.05, 221.10, 221.15, 221.20, 221.35 or 221.40 of the penal law in

1 effect prior to the effective date of this paragraph and that the under-
2 lying action or proceeding has already been vacated, dismissed and
3 expunged.

4 (e) Nothing in this and related sections of law is intended to dimin-
5 ish or abrogate the finality of judgments in any case not falling within
6 the purview of this section.

7 (f) The provisions of this section shall be available, used and
8 applied in parallel fashion by the family court and the criminal courts
9 to juvenile delinquency adjudications, adolescent offender adjudications
10 and youthful offender adjudications.

11 (g) The chief administrator of the courts shall promulgate all neces-
12 sary rules and make available all necessary forms to enable the filing
13 of the petitions and applications provided in this section no later than
14 sixty days following the effective date of this section. All sentences
15 eligible for automatic vacatur, dismissal and expungement pursuant to
16 subdivision one of this section shall be identified and the required
17 entities notified within one year of the effective date of this section.

18 § 25. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
19 procedure law, as amended by chapter 37 of the laws of 2014, is amended
20 to read as follows:

21 (c) Criminal possession of a controlled substance in the seventh
22 degree as defined in section 220.03 of the penal law, criminal
23 possession of a controlled substance in the fifth degree as defined in
24 section 220.06 of the penal law, criminal possession of a controlled
25 substance in the fourth degree as defined in section 220.09 of the penal
26 law, criminal possession of a controlled substance in the third degree
27 as defined in section 220.16 of the penal law, criminal possession of a
28 controlled substance in the second degree as defined in section 220.18
29 of the penal law, criminal possession of a controlled substance in the
30 first degree as defined in section 220.21 of the penal law, criminal
31 sale of a controlled substance in the fifth degree as defined in section
32 220.31 of the penal law, criminal sale of a controlled substance in the
33 fourth degree as defined in section 220.34 of the penal law, criminal
34 sale of a controlled substance in the third degree as defined in section
35 220.39 of the penal law, criminal sale of a controlled substance in the
36 second degree as defined in section 220.41 of the penal law, criminal
37 sale of a controlled substance in the first degree as defined in section
38 220.43 of the penal law, criminally possessing a hypodermic instrument
39 as defined in section 220.45 of the penal law, criminal sale of a
40 prescription for a controlled substance or a controlled substance by a
41 practitioner or pharmacist as defined in section 220.65 of the penal
42 law, criminal possession of methamphetamine manufacturing material in
43 the second degree as defined in section 220.70 of the penal law, crimi-
44 nal possession of methamphetamine manufacturing material in the first
45 degree as defined in section 220.71 of the penal law, criminal
46 possession of precursors of methamphetamine as defined in section 220.72
47 of the penal law, unlawful manufacture of methamphetamine in the third
48 degree as defined in section 220.73 of the penal law, unlawful manufac-
49 ture of methamphetamine in the second degree as defined in section
50 220.74 of the penal law, unlawful manufacture of methamphetamine in the
51 first degree as defined in section 220.75 of the penal law, unlawful
52 disposal of methamphetamine laboratory material as defined in section
53 220.76 of the penal law, operating as a major trafficker as defined in
54 section 220.77 of the penal law, ~~criminal possession of marihuana in~~
55 ~~the first degree as defined in section 221.30 of the penal law, criminal~~
56 ~~sale of marihuana in the first degree as defined in section 221.55 of~~

1 ~~the penal law,~~] promoting gambling in the second degree as defined in
2 section 225.05 of the penal law, promoting gambling in the first degree
3 as defined in section 225.10 of the penal law, possession of gambling
4 records in the second degree as defined in section 225.15 of the penal
5 law, possession of gambling records in the first degree as defined in
6 section 225.20 of the penal law, and possession of a gambling device as
7 defined in section 225.30 of the penal law;

8 § 26. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and
9 9 of section 1310 of the civil practice law and rules, paragraphs (b)
10 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990
11 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,
12 are amended to read as follows:

13 (b) on three or more occasions, engaging in conduct constituting a
14 violation of any of the felonies defined in section 220.09, 220.16,
15 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[~~7~~] or 220.43 [~~or 221.55~~]
16 of the penal law, which violations do not constitute a single criminal
17 offense as defined in subdivision one of section 40.10 of the criminal
18 procedure law, or a single criminal transaction, as defined in paragraph
19 (a) of subdivision two of section 40.10 of the criminal procedure law,
20 and at least one of which resulted in a conviction of such offense, or
21 where the accusatory instrument charges one or more of such felonies,
22 conviction upon a plea of guilty to a felony for which such plea is
23 otherwise authorized by law; or

24 (c) a conviction of a person for a violation of section 220.09,
25 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-~~
26 ~~nal defendant for a violation of section 221.30 of the penal law,~~] or
27 where the accusatory instrument charges any such felony, conviction upon
28 a plea of guilty to a felony for which the plea is otherwise authorized
29 by law, together with evidence which: (i) provides substantial indicia
30 that the defendant used the real property to engage in a continual,
31 ongoing course of conduct involving the unlawful mixing, compounding,
32 manufacturing, warehousing, or packaging of controlled substances [~~or~~
33 ~~where the conviction is for a violation of section 221.30 of the penal~~
34 ~~law, marijuana,~~] as part of an illegal trade or business for gain; and
35 (ii) establishes, where the conviction is for possession of a controlled
36 substance [~~or where the conviction is for a violation of section 221.30~~
37 ~~of the penal law, marijuana~~], that such possession was with the intent
38 to sell it.

39 [~~6. "Pre-conviction forfeiture crime" means only a felony defined in~~
40 ~~article two hundred twenty or section 221.30 or 221.55 of the penal~~
41 ~~law.~~]

42 9. "Criminal defendant" means a person who has criminal liability for
43 a crime defined in [~~subdivisions~~] subdivision five [~~and six hereof~~] of
44 this section. For purposes of this article, a person has criminal
45 liability when [~~(a)~~] he has been convicted of a post-conviction forfei-
46 ture crime[, ~~or (b) the claiming authority proves by clear and convinc-~~
47 ~~ing evidence that such person has committed an act in violation of arti-~~
48 ~~cle two hundred twenty or section 221.30 or 221.55 of the penal law~~].

49 § 27. Subdivision 13 of section 89-f of the general business law, as
50 added by chapter 336 of the laws of 1992, is amended to read as follows:

51 13. "Serious offense" shall mean any felony involving the offenses
52 enumerated in the closing paragraph of this subdivision; a criminal
53 solicitation of or a conspiracy to commit or an attempt to commit or a
54 criminal facilitation of a felony involving the offenses enumerated in
55 the closing paragraph of this subdivision, which criminal solicitation,
56 conspiracy, attempt or criminal facilitation itself constitutes a felony

1 or any offense in any other jurisdiction which if committed in this
2 state would constitute a felony; any offense in any other jurisdiction
3 which if committed in this state would constitute a felony provided that
4 for the purposes of this article, none of the following shall be consid-
5 ered criminal convictions or reported as such: (i) a conviction for
6 which an executive pardon has been issued pursuant to the executive law;
7 (ii) a conviction which has been vacated and replaced by a youthful
8 offender finding pursuant to article seven hundred twenty of the crimi-
9 nal procedure law, or the applicable provisions of law of any other
10 jurisdiction; or (iii) a conviction the records of which have been
11 sealed pursuant to the applicable provisions of the laws of this state
12 or of any other jurisdiction; and (iv) a conviction for which other
13 evidence of successful rehabilitation to remove the disability has been
14 issued.

15 Felonies involving: assault, aggravated assault and reckless endanger-
16 ment pursuant to article one hundred twenty; vehicular manslaughter,
17 manslaughter and murder pursuant to article one hundred twenty-five; sex
18 offenses pursuant to article one hundred thirty; unlawful imprisonment,
19 kidnapping or coercion pursuant to article one hundred thirty-five;
20 criminal trespass and burglary pursuant to article one hundred forty;
21 criminal mischief, criminal tampering and tampering with a consumer
22 product pursuant to article one hundred forty-five; arson pursuant to
23 article one hundred fifty; larceny and offenses involving theft pursuant
24 to article one hundred fifty-five; offenses involving computers pursuant
25 to article one hundred fifty-six; robbery pursuant to article one
26 hundred sixty; criminal possession of stolen property pursuant to arti-
27 cle one hundred sixty-five; forgery and related offenses pursuant to
28 article one hundred seventy; involving false written statements pursuant
29 to article one hundred seventy-five; commercial bribing and commercial
30 bribe receiving pursuant to article one hundred eighty; criminal imper-
31 sonation and scheme to defraud pursuant to article one hundred ninety;
32 bribery involving public servants and related offenses pursuant to arti-
33 cle two hundred; perjury and related offenses pursuant to article two
34 hundred ten; tampering with a witness, intimidating a victim or witness
35 and tampering with physical evidence pursuant to article two hundred
36 fifteen; criminal possession of a controlled substance pursuant to
37 sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a
38 controlled substance pursuant to sections 220.31, 220.34, 220.39,
39 220.41, 220.43 and 220.44; criminal sale of [~~marijuana~~] cannabis pursu-
40 ant to sections [~~221.45, 221.50 and 221.55~~] 222.55, 222.60 and 222.65;
41 riot in the first degree, aggravated harassment in the first degree,
42 criminal nuisance in the first degree and falsely reporting an incident
43 in the second or first degree pursuant to article two hundred forty; and
44 crimes against public safety pursuant to article two hundred sixty-five
45 of the penal law.

46 § 28. Paragraph (f) of subdivision 2 of section 850 of the general
47 business law is REPEALED.

48 § 29. Paragraph (h) of subdivision 2 of section 850 of the general
49 business law, as amended by chapter 812 of the laws of 1980, is amended
50 to read as follows:

51 (h) Objects, used or designed for the purpose of ingesting, inhaling,
52 or otherwise introducing [~~marihuana,~~] cocaine[~~, hashish, or hashish oil~~]
53 into the human body.

54 § 30. Subdivision 7 of section 995 of the executive law, as amended by
55 chapter 19 of the laws of 2012, is amended to read as follows:

1 7. "Designated offender" means a person convicted of any felony
2 defined in any chapter of the laws of the state or any misdemeanor
3 defined in the penal law [~~except that where the person is convicted~~
4 ~~under section 221.10 of the penal law, only a person convicted under~~
5 ~~subdivision two of such section, or a person convicted under subdivision~~
6 ~~one of such section who stands previously convicted of any crime as~~
7 ~~defined in subdivision six of section 10.00 of the penal law~~].

8 § 31. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the
9 penal law, paragraph (b) as amended by section 31 of part AAA of chapter
10 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the
11 laws of 1990, are amended to read as follows:

12 (b) three or more violations of any of the felonies defined in section
13 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
14 220.43[7] or 220.77[~~7~~, ~~or 221.55~~] of this chapter, which violations do
15 not constitute a single criminal offense as defined in subdivision one
16 of section 40.10 of the criminal procedure law, or a single criminal
17 transaction, as defined in paragraph (a) of subdivision two of section
18 40.10 of the criminal procedure law, and at least one of which resulted
19 in a conviction of such offense, or where the accusatory instrument
20 charges one or more of such felonies, conviction upon a plea of guilty
21 to a felony for which such plea is otherwise authorized by law; or

22 (c) a conviction of a person for a violation of section 220.09,
23 220.16, 220.34[7] or 220.39[~~7~~, ~~or 221.30~~] of this chapter, or where the
24 accusatory instrument charges any such felony, conviction upon a plea of
25 guilty to a felony for which the plea is otherwise authorized by law,
26 together with evidence which: (i) provides substantial indicia that the
27 defendant used the real property to engage in a continual, ongoing
28 course of conduct involving the unlawful mixing, compounding, manufac-
29 turing, warehousing, or packaging of controlled substances [~~or where the~~
30 ~~conviction is for a violation of section 221.30 of this chapter, mari-~~
31 ~~juana~~] as part of an illegal trade or business for gain; and (ii) estab-
32 lishes, where the conviction is for possession of a controlled substance
33 [~~or where the conviction is for a violation of section 221.30 of this~~
34 ~~chapter, marijuana~~], that such possession was with the intent to sell
35 it.

36 § 32. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
37 and traffic law, as amended by chapter 368 of the laws of 2015, is
38 amended to read as follows:

39 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
40 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
41 of this section that result in disqualification for a period of five
42 years shall include a conviction under sections 100.10, 105.13, 115.05,
43 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
44 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,
45 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
46 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~] subdi-
47 vision two of section 222.50, subdivision two of section 222.55, 230.00,
48 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06,
49 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section
50 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10,
51 265.12, 265.35 of the penal law or an attempt to commit any of the afor-
52 esaid offenses under section 110.00 of the penal law, or any similar
53 offenses committed under a former section of the penal law, or any
54 offenses committed under a former section of the penal law which would
55 constitute violations of the aforesaid sections of the penal law, or any

1 offenses committed outside this state which would constitute violations
2 of the aforesaid sections of the penal law.

3 § 33. The opening paragraph of paragraph (a) of subdivision 2 of
4 section 1194 of the vehicle and traffic law, as amended by chapter 196
5 of the laws of 1996, is amended to read as follows:

6 When authorized. Any person who operates a motor vehicle in this state
7 shall be deemed to have given consent to a chemical test of one or more
8 of the following: breath, blood[, or urine[, ~~or saliva,~~] for the
9 purpose of determining the alcoholic and/or drug content, other than
10 cannabis content including but not limited to tetrahydrocannabinol
11 content, of the blood provided that such test is administered by or at
12 the direction of a police officer with respect to a chemical test of
13 breath, urine [~~or saliva~~] or, with respect to a chemical test of blood,
14 at the direction of a police officer:

15 § 34. The article heading of article 20-B of the tax law, as added by
16 chapter 90 of the laws of 2014, is amended to read as follows:

17 EXCISE TAX ON MEDICAL [~~MARIJUANA~~] CANNABIS

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

21 1. All taxes, interest, penalties and fees collected or received by
22 the commissioner or the commissioner's duly authorized agent under arti-
23 cles nine (except section one hundred eighty-two-a thereof and except as
24 otherwise provided in section two hundred five thereof), nine-A,
25 twelve-A (except as otherwise provided in section two hundred eighty-
26 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
27 section three hundred twelve thereof), eighteen, nineteen, twenty
28 (except as otherwise provided in section four hundred eighty-two there-
29 of), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four,
30 twenty-six, twenty-eight (except as otherwise provided in section eleven
31 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
32 nine-B, thirty-one (except as otherwise provided in section fourteen
33 hundred twenty-one thereof), thirty-three and thirty-three-A of this
34 chapter shall be deposited daily in one account with such responsible
35 banks, banking houses or trust companies as may be designated by the
36 comptroller, to the credit of the comptroller. Such an account may be
37 established in one or more of such depositories. Such deposits shall be
38 kept separate and apart from all other money in the possession of the
39 comptroller. The comptroller shall require adequate security from all
40 such depositories. Of the total revenue collected or received under such
41 articles of this chapter, the comptroller shall retain in the comp-
42 troller's hands such amount as the commissioner may determine to be
43 necessary for refunds or reimbursements under such articles of this
44 chapter out of which amount the comptroller shall pay any refunds or
45 reimbursements to which taxpayers shall be entitled under the provisions
46 of such articles of this chapter. The commissioner and the comptroller
47 shall maintain a system of accounts showing the amount of revenue
48 collected or received from each of the taxes imposed by such articles.
49 The comptroller, after reserving the amount to pay such refunds or
50 reimbursements, shall, on or before the tenth day of each month, pay
51 into the state treasury to the credit of the general fund all revenue
52 deposited under this section during the preceding calendar month and
53 remaining to the comptroller's credit on the last day of such preceding
54 month, (i) except that the comptroller shall pay to the state department
55 of social services that amount of overpayments of tax imposed by article
56 twenty-two of this chapter and the interest on such amount which is

1 certified to the comptroller by the commissioner as the amount to be
2 credited against past-due support pursuant to subdivision six of section
3 one hundred seventy-one-c of this article, (ii) and except that the
4 comptroller shall pay to the New York state higher education services
5 corporation and the state university of New York or the city university
6 of New York respectively that amount of overpayments of tax imposed by
7 article twenty-two of this chapter and the interest on such amount which
8 is certified to the comptroller by the commissioner as the amount to be
9 credited against the amount of defaults in repayment of guaranteed
10 student loans and state university loans or city university loans pursu-
11 ant to subdivision five of section one hundred seventy-one-d and subdivi-
12 sion six of section one hundred seventy-one-e of this article, (iii)
13 and except further that, notwithstanding any law, the comptroller shall
14 credit to the revenue arrearage account, pursuant to section
15 ninety-one-a of the state finance law, that amount of overpayment of tax
16 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
17 or thirty-three of this chapter, and any interest thereon, which is
18 certified to the comptroller by the commissioner as the amount to be
19 credited against a past-due legally enforceable debt owed to a state
20 agency pursuant to paragraph (a) of subdivision six of section one
21 hundred seventy-one-f of this article, provided, however, he shall cred-
22 it to the special offset fiduciary account, pursuant to section ninety-
23 one-c of the state finance law, any such amount creditable as a liabil-
24 ity as set forth in paragraph (b) of subdivision six of section one
25 hundred seventy-one-f of this article, (iv) and except further that the
26 comptroller shall pay to the city of New York that amount of overpayment
27 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
28 thirty-B or thirty-three of this chapter and any interest thereon that
29 is certified to the comptroller by the commissioner as the amount to be
30 credited against city of New York tax warrant judgment debt pursuant to
31 section one hundred seventy-one-l of this article, (v) and except
32 further that the comptroller shall pay to a non-obligated spouse that
33 amount of overpayment of tax imposed by article twenty-two of this chap-
34 ter and the interest on such amount which has been credited pursuant to
35 section one hundred seventy-one-c, one hundred seventy-one-d, one
36 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
37 ty-one-l of this article and which is certified to the comptroller by
38 the commissioner as the amount due such non-obligated spouse pursuant to
39 paragraph six of subsection (b) of section six hundred fifty-one of this
40 chapter; and (vi) the comptroller shall deduct a like amount which the
41 comptroller shall pay into the treasury to the credit of the general
42 fund from amounts subsequently payable to the department of social
43 services, the state university of New York, the city university of New
44 York, or the higher education services corporation, or the revenue
45 arrearage account or special offset fiduciary account pursuant to
46 section ninety-one-a or ninety-one-c of the state finance law, as the
47 case may be, whichever had been credited the amount originally withheld
48 from such overpayment, and (vii) with respect to amounts originally
49 withheld from such overpayment pursuant to section one hundred seventy-
50 one-l of this article and paid to the city of New York, the comptroller
51 shall collect a like amount from the city of New York.

52 § 36. Intentionally omitted.

53 § 37. Section 490 of the tax law, as added by chapter 90 of the laws
54 of 2014, is amended to read as follows:

55 § 490. [~~Definitions~~] Excise tax on medical cannabis. 1. (a) [~~All~~
56 ~~definitions of terms applicable to title five-A of article thirty-three~~

1 ~~of the public health law shall apply to this article.] For purposes of~~
2 this article, the terms "medical cannabis," "registered organization,"
3 "certified patient," and "designated caregiver" shall have the same
4 definitions as in section three of the cannabis law.

5 (b) As used in this section, where not otherwise specifically defined
6 and unless a different meaning is clearly required "gross receipt" means
7 the amount received in or by reason of any sale, conditional or other-
8 wise, of medical [~~marihuana~~] cannabis or in or by reason of the furnish-
9 ing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~]
10 cannabis provided by a registered organization to a certified patient or
11 designated caregiver. Gross receipt is expressed in money, whether paid
12 in cash, credit or property of any kind or nature, and shall be deter-
13 mined without any deduction therefrom on account of the cost of the
14 service sold or the cost of materials, labor or services used or other
15 costs, interest or discount paid, or any other expenses whatsoever.
16 "Amount received" for the purpose of the definition of gross receipt, as
17 the term gross receipt is used throughout this article, means the amount
18 charged for the provision of medical [~~marihuana~~] cannabis.

19 2. There is hereby imposed an excise tax on the gross receipts from
20 the sale of medical [~~marihuana~~] cannabis by a registered organization to
21 a certified patient or designated caregiver, to be paid by the regis-
22 tered organization, at the rate of seven percent. The tax imposed by
23 this article shall be charged against and be paid by the registered
24 organization and shall not be added as a separate charge or line item on
25 any sales slip, invoice, receipt or other statement or memorandum of the
26 price given to the retail customer.

27 3. The commissioner may make, adopt and amend rules, regulations,
28 procedures and forms necessary for the proper administration of this
29 article.

30 4. Every registered organization that makes sales of medical [~~marihua-~~
31 ~~na~~] cannabis subject to the tax imposed by this article shall, on or
32 before the twentieth date of each month, file with the commissioner a
33 return on forms to be prescribed by the commissioner, showing its
34 receipts from the retail sale of medical [~~marihuana~~] cannabis during the
35 preceding calendar month and the amount of tax due thereon. Such returns
36 shall contain such further information as the commissioner may require.
37 Every registered organization required to file a return under this
38 section shall, at the time of filing such return, pay to the commission-
39 er the total amount of tax due on its retail sales of medical [~~marihua-~~
40 ~~na~~] cannabis for the period covered by such return. If a return is not
41 filed when due, the tax shall be due on the day on which the return is
42 required to be filed.

43 5. Whenever the commissioner shall determine that any moneys received
44 under the provisions of this article were paid in error, he may cause
45 the same to be refunded, with interest, in accordance with such rules
46 and regulations as he may prescribe, except that no interest shall be
47 allowed or paid if the amount thereof would be less than one dollar.
48 Such interest shall be at the overpayment rate set by the commissioner
49 pursuant to subdivision twenty-sixth of section one hundred seventy-one
50 of this chapter, or if no rate is set, at the rate of six percent per
51 annum, from the date when the tax, penalty or interest to be refunded
52 was paid to a date preceding the date of the refund check by not more
53 than thirty days. Provided, however, that for the purposes of this
54 subdivision, any tax paid before the last day prescribed for its payment
55 shall be deemed to have been paid on such last day. Such moneys received
56 under the provisions of this article which the commissioner shall deter-

1 mine were paid in error, may be refunded out of funds in the custody of
2 the comptroller to the credit of such taxes provided an application
3 therefor is filed with the commissioner within two years from the time
4 the erroneous payment was made.

5 6. The provisions of article twenty-seven of this chapter shall apply
6 to the tax imposed by this article in the same manner and with the same
7 force and effect as if the language of such article had been incorpo-
8 rated in full into this section and had expressly referred to the tax
9 imposed by this article, except to the extent that any provision of such
10 article is either inconsistent with a provision of this article or is
11 not relevant to this article.

12 7. All taxes, interest and penalties collected or received by the
13 commissioner under this article shall be deposited and disposed of
14 pursuant to the provisions of section one hundred seventy-one-a of this
15 chapter, provided that an amount equal to one hundred percent collected
16 under this article less any amount determined by the commissioner to be
17 reserved by the comptroller for refunds or reimbursements shall be paid
18 by the comptroller to the credit of the medical [~~marihuana~~] cannabis
19 trust fund established by section eighty-nine-h of the state finance
20 law.

21 8. A registered organization that dispenses medical [~~marihuana~~] canna-
22 bis shall provide to the department information on where the medical
23 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]
24 cannabis was manufactured. A registered organization that obtains [~~mari-~~
25 ~~huana~~] cannabis from another registered organization shall obtain from
26 such registered organization information on where the medical [~~marihua-~~
27 ~~na~~] cannabis was manufactured.

28 § 38. Section 491 of the tax law, as added by chapter 90 of the laws
29 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60
30 of the laws of 2016, is amended to read as follows:

31 § 491. Returns to be secret. 1. Except in accordance with proper judi-
32 cial order or as in this section or otherwise provided by law, it shall
33 be unlawful for the commissioner, any officer or employee of the depart-
34 ment, or any officer or person who, pursuant to this section, is permit-
35 ted to inspect any return or report or to whom a copy, an abstract or a
36 portion of any return or report is furnished, or to whom any information
37 contained in any return or report is furnished, or any person engaged or
38 retained by such department on an independent contract basis or any
39 person who in any manner may acquire knowledge of the contents of a
40 return or report filed pursuant to this article to divulge or make known
41 in any manner the contents or any other information relating to the
42 business of a distributor, owner or other person contained in any return
43 or report required under this article. The officers charged with the
44 custody of such returns or reports shall not be required to produce any
45 of them or evidence of anything contained in them in any action or
46 proceeding in any court, except on behalf of the [~~state, the state~~
47 ~~department of health~~] cannabis control board, or the commissioner in an
48 action or proceeding under the provisions of this chapter or on behalf
49 of the state or the commissioner in any other action or proceeding
50 involving the collection of a tax due under this chapter to which the
51 state or the commissioner is a party or a claimant or on behalf of any
52 party to any action or proceeding under the provisions of this article,
53 when the returns or the reports or the facts shown thereby are directly
54 involved in such action or proceeding, or in an action or proceeding
55 relating to the regulation or taxation of medical [~~marihuana~~] cannabis
56 on behalf of officers to whom information shall have been supplied as

1 provided in subdivision two of this section, in any of which events the
2 court may require the production of, and may admit in evidence so much
3 of said returns or reports or of the facts shown thereby as are perti-
4 nent to the action or proceeding and no more. Nothing herein shall be
5 construed to prohibit the commissioner, in his or her discretion, from
6 allowing the inspection or delivery of a certified copy of any return or
7 report filed under this article or of any information contained in any
8 such return or report by or to a duly authorized officer or employee of
9 the [~~state department of health~~] cannabis control board; or by or to the
10 attorney general or other legal representatives of the state when an
11 action shall have been recommended or commenced pursuant to this chapter
12 in which such returns or reports or the facts shown thereby are directly
13 involved; or the inspection of the returns or reports required under
14 this article by the comptroller or duly designated officer or employee
15 of the state department of audit and control, for purposes of the audit
16 of a refund of any tax paid by a registered organization or other person
17 under this article; nor to prohibit the delivery to a registered organ-
18 ization, or a duly authorized representative of such registered organ-
19 ization, a certified copy of any return or report filed by such regis-
20 tered organization pursuant to this article, nor to prohibit the
21 publication of statistics so classified as to prevent the identification
22 of particular returns or reports and the items thereof. This section
23 shall also not be construed to prohibit the disclosure, for tax adminis-
24 tration purposes, to the division of the budget and the office of the
25 state comptroller, of information aggregated from the returns filed by
26 all the registered organizations making sales of, or manufacturing,
27 medical [~~marihuana~~] cannabis in a specified county, whether the number
28 of such registered organizations is one or more. Provided further that,
29 notwithstanding the provisions of this subdivision, the commissioner
30 may, in his or her discretion, permit the proper officer of any county
31 entitled to receive an allocation, following appropriation by the legis-
32 lature, pursuant to this article and section eighty-nine-h of the state
33 finance law, or the authorized representative of such officer, to
34 inspect any return filed under this article, or may furnish to such
35 officer or the officer's authorized representative an abstract of any
36 such return or supply such officer or such representative with informa-
37 tion concerning an item contained in any such return, or disclosed by
38 any investigation of tax liability under this article.

39 2. The commissioner, in his or her discretion and pursuant to such
40 rules and regulations as he or she may adopt, may permit [~~the commis-~~
41 ~~sioner of internal revenue of the United States, or~~] the appropriate
42 officers of any other state which regulates or taxes medical [~~marihuana~~]
43 cannabis, or the duly authorized representatives of such [~~commissioner~~
44 ~~or of any such~~] officers, to inspect returns or reports made pursuant to
45 this article, or may furnish to such [~~commissioner or~~] other officers,
46 or duly authorized representatives, a copy of any such return or report
47 or an abstract of the information therein contained, or any portion
48 thereof, or may supply [~~such commissioner or~~] any such officers or such
49 representatives with information relating to the business of a regis-
50 tered organization making returns or reports hereunder. The commissioner
51 may refuse to supply information pursuant to this subdivision [~~to the~~
52 ~~commissioner of internal revenue of the United States or~~] to the offi-
53 cers of any other state if the statutes [~~of the United States, or~~] of
54 the state represented by such officers, do not grant substantially simi-
55 lar privileges to the commissioner, but such refusal shall not be manda-
56 tory. Information shall not be supplied to [~~the commissioner of internal~~

1 ~~revenue of the United States or~~] the appropriate officers of any other
 2 state which regulates or taxes medical [~~marihuana~~] **cannabis**, or the duly
 3 authorized representatives [~~of such commissioner or~~] of any of such
 4 officers, unless such [~~commissioner,~~] officer or other representatives
 5 shall agree not to divulge or make known in any manner the information
 6 so supplied, but such officers may transmit such information to their
 7 employees or legal representatives when necessary, who in turn shall be
 8 subject to the same restrictions as those hereby imposed upon such
 9 [~~commissioner,~~] officer or other representatives.

10 3. (a) Any officer or employee of the state who willfully violates the
 11 provisions of subdivision one or two of this section shall be dismissed
 12 from office and be incapable of holding any public office in this state
 13 for a period of five years thereafter.

14 (b) Cross-reference: For criminal penalties, see article thirty-seven
 15 of this chapter.

16 § 39. The tax law is amended by adding a new article 20-C to read as
 17 follows:

18 ARTICLE 20-C

19 TAX ON ADULT-USE CANNABIS PRODUCTS

20 Section 492. Definitions.

21 493. Tax on cannabis.

22 494. Registration and renewal.

23 495. Returns and payment of tax.

24 496. Returns to be kept secret.

25 § 492. Definitions. For purposes of this article, the following defi-
 26 nitions shall apply:

27 (a) "Cannabis" shall have the same meaning as in section three of the
 28 cannabis law. For purposes of this article, cannabis does not include
 29 medical cannabis or cannabinoid hemp and hemp extract as defined in
 30 section three of the cannabis law.

31 (b) "Cannabis product" or "adult-use cannabis product" means a canna-
 32 bis product as defined in section three of the cannabis law. For
 33 purposes of this article, under no circumstances shall adult-use canna-
 34 bis product include medical cannabis or cannabinoid hemp and hemp
 35 extract as defined in section three of the cannabis law.

36 (c) "Person" means every individual, partnership, limited liability
 37 company, society, association, joint stock company, corporation, estate,
 38 receiver, trustee, assignee, referee, and any other person acting in a
 39 fiduciary or representative capacity, whether appointed by a court or
 40 otherwise, and any combination of the foregoing.

41 (d) "Retail dispensary" means a dispensary licensed to sell adult-use
 42 cannabis products pursuant to section seventy-two of the cannabis law.

43 (e) "Transfer" means to grant, convey, hand over, assign, sell,
 44 exchange or barter, in any manner or by any means, with or without
 45 consideration.

46 (f) "Sale" means any transfer of title, possession or both, exchange
 47 or barter, rental, lease or license to use or consume, conditional or
 48 otherwise, in any manner or by any means whatsoever for a consideration
 49 or any agreement therefor.

50 § 493. Tax on cannabis. (a) There is hereby imposed a tax on the sale
 51 or transfer of adult-use cannabis products by any person to a retail
 52 dispensary at the rate of eighteen percent of the amount charged by
 53 such person for adult-use cannabis products, which shall accrue at the
 54 time of such sale or transfer. Where the retail dispensary is operated
 55 by a person licensed under the cannabis law as a registered organiza-

1 tion, such tax shall be paid by the retail dispensary at the rate of
2 eighteen percent of the price charged to the retail customer and shall
3 accrue at the time of such sale.

4 (b) In addition to the taxes imposed by subdivision (a) of this
5 section, there is hereby imposed a tax on the sale or transfer of
6 adult-use cannabis products by any person to a retail dispensary at the
7 rate of one percent of the amount charged by such person for such
8 adult-use cannabis products, which shall accrue at the time of such sale
9 or transfer. The tax imposed by this subdivision shall be in trust for
10 and on account of a city having a population of one million or more, or
11 a county, other than a county wholly within such a city, in which the
12 retail dispensary is located. Where the retail dispensary is operated by
13 a person licensed under the cannabis law as a registered organization,
14 such tax shall be paid by the retail dispensary at the rate of one
15 percent of the price charged to the retail customer.

16 (c) In addition to the taxes imposed by subdivisions (a) and (b) of
17 this section, there is hereby imposed a tax on the sale or transfer of
18 adult-use cannabis products by any person to a retail dispensary at the
19 rate of three percent of the amount charged by such person for such
20 adult-use cannabis products, which shall accrue at the time of such sale
21 or transfer. The tax imposed by this subdivision shall be in trust for
22 and on account of the town, village, or city in which the retail dispen-
23 sary is located. Where the retail dispensary is operated by a person
24 licensed under the cannabis law as a registered organization, such tax
25 shall be paid by the retail dispensary at the rate of three percent of
26 the price charged to the retail customer.

27 (d) It shall be presumed that all adult-use cannabis products within
28 the state are subject to tax until the contrary is established, and the
29 burden of proof that the taxes imposed by subdivisions (a), (b) and (c)
30 of this section have been paid shall be upon the person in possession
31 thereof where such person holds any license under the cannabis law.
32 Every person holding a license under the cannabis law who possesses
33 adult-use cannabis products upon which such taxes have not been paid
34 shall be liable for the payment of such taxes, and the failure of such
35 person to produce to the commissioner or his or her authorized represen-
36 tative upon demand an invoice for any adult-use cannabis products in his
37 or her possession shall be presumptive evidence that the tax thereon has
38 not been paid and that such person is liable for the tax thereon, unless
39 evidence of such invoice or payment is later produced.

40 (e) Notwithstanding any other provision of law to the contrary, the
41 taxes imposed by article twenty of this chapter shall not apply to any
42 product subject to tax under this article.

43 § 494. Registration and renewal. (a) Every person to whom adult-use
44 cannabis products are sold or transferred, and every person licensed as
45 a microbusiness, cooperative or registered organization under the canna-
46 bis law must file with the commissioner a properly completed application
47 for a certificate of registration before engaging in business. In order
48 to apply for such certificate of registration, such person must first be
49 in possession of a valid license from the office of cannabis management.
50 An application for a certificate of registration must be submitted elec-
51 tronically, on a form prescribed by the commissioner, and must be accom-
52 panied by a non-refundable application fee of six hundred dollars. A
53 certificate of registration shall not be assignable or transferable and
54 shall be destroyed immediately upon such person ceasing to do business
55 as specified in such certificate, or in the event that such business
56 never commenced.

1 (b) The commissioner shall refuse to issue a certificate of registra-
2 tion to any applicant and shall revoke the certificate of registration
3 of any such person who does not possess a valid license from the office
4 of cannabis management. The commissioner may refuse to issue a certif-
5 icate of registration to any applicant where such applicant: (1) has a
6 past-due liability as that term is defined in section one hundred seven-
7 ty-one-v of this chapter; (2) has had a certificate of registration
8 under this article, a license from the office of cannabis management, or
9 any license or registration provided for in this chapter revoked within
10 one year from the date on which such application was filed; (3) has had
11 a certificate of registration under this article, a license from the
12 office of cannabis management, or any license or registration provided
13 for in this chapter suspended where the suspension is in effect on the
14 date the application is filed or ended less than one year from such
15 date; (4) has been convicted of a crime provided for in this chapter
16 within one year from the date on which such application was filed or the
17 certificate was issued as applicable; (5) willfully fails to file a
18 report or return required by this article; (6) willfully files, causes
19 to be filed, gives or causes to be given a report, return, certificate
20 or affidavit required by this article which is false; or (7) willfully
21 fails to collect or truthfully account for or pay over any tax imposed
22 by this article.

23 (c) A certificate of registration shall be valid for the period speci-
24 fied thereon, unless earlier suspended or revoked. Upon the expiration
25 of the term stated on a certificate of registration, such certificate
26 shall be null and void.

27 (d) Every holder of a certificate of registration must notify the
28 commissioner of changes to any of the information stated on the certif-
29 icate, or of changes to any information contained in the application for
30 the certificate of registration. Such notification must be made on or
31 before the last day of the month in which a change occurs and must be
32 made electronically on a form prescribed by the commissioner.

33 (e) Every holder of a certificate of registration under this article
34 shall be required to reapply prior to such certificate's expiration,
35 during a reapplication period established by the commissioner. Such
36 reapplication period shall not occur more frequently than every two
37 years. Such reapplication shall be subject to the same requirements and
38 conditions as an initial application, including grounds for refusal and
39 the payment of the application fee.

40 (f) Any person who is required to obtain a certificate of registration
41 under subdivision (a) of this section who possesses adult-use cannabis
42 products without such certificate shall be subject to a penalty of five
43 hundred dollars for each month or part thereof during which adult-use
44 cannabis products are possessed without such certificate, not to exceed
45 ten thousand dollars in the aggregate.

46 § 495. Returns and payment of tax. (a) 1. Every person to whom
47 adult-use cannabis products are sold or transferred, and every person
48 licensed as a microbusiness, cooperative or registered organization
49 under the cannabis law shall, on or before the twentieth day of the
50 month, file with the commissioner a return on forms to be prescribed by
51 the commissioner, the total amount of tax due thereon in the preceding
52 calendar month, and the total amount of tax due under subdivisions (a),
53 (b) and (c) of section four hundred ninety-three of this article on its
54 sales to a retail dispensary during the preceding calendar month, along
55 with such other information as the commissioner may require. Every
56 person required to file a return under this section shall, at the time

1 of filing such return, pay to the commissioner the total amount of tax
2 due for the period covered by such return. If a return is not filed when
3 due, the tax shall be due on the day on which the return is required to
4 be filed.

5 2. Every person to whom adult-use cannabis products are sold or trans-
6 ferred, and every person licensed as a microbusiness, cooperative or
7 registered organization under the cannabis law shall maintain complete
8 and accurate records in such form as the commissioner may require
9 including, but not limited to, such items as the geographic location of
10 every retail dispensary to which such person sold or transferred adult-
11 use cannabis products; and any other record or information required by
12 the commissioner. Such records must be preserved for a period of three
13 years after the filing of the return to which such records relate and
14 must be provided to the commissioner upon request.

15 (b) The provisions of article twenty-seven of this chapter shall apply
16 to the tax imposed by this article in the same manner and with the same
17 force and effect as if the language of such article had been incorpo-
18 rated in full into this section and had expressly referred to the tax
19 imposed by this article, except to the extent that any provision of such
20 article is either inconsistent with a provision of this article or is
21 not relevant to this article.

22 (c) 1. All taxes, interest, and penalties collected or received by the
23 commissioner under this article shall be deposited and disposed of
24 pursuant to the provisions of section one hundred seventy-one-a of this
25 chapter, provided that an amount equal to one hundred percent collected
26 under this article less any amount determined by the commissioner to be
27 reserved by the comptroller for refunds or reimbursements shall be paid
28 by the comptroller to the credit of the cannabis revenue fund estab-
29 lished by section ninety-nine-ii of the state finance law. Of the total
30 revenue collected or received under this article, the comptroller shall
31 retain such amount as the commissioner may determine to be necessary for
32 refunds. The commissioner is authorized and directed to deduct from the
33 registration fees under subdivision (a) of section four hundred ninety-
34 four of this article, before deposit into the cannabis revenue fund
35 designated by the comptroller, a reasonable amount necessary to effectuate
36 refunds of appropriations of the department to reimburse the depart-
37 ment for the costs incurred to administer, collect, and distribute the
38 taxes imposed by this article.

39 2. Notwithstanding the foregoing, the commissioner shall certify to
40 the comptroller the total amount of tax, penalty and interest received
41 by him or her on account of the tax imposed by subdivisions (b) and (c)
42 of section four hundred ninety-three of this article in trust for and on
43 account of each county and city having a population of one million or
44 more, other than a county wholly within such a city, and the town,
45 village or city in which a retail dispensary is located. On or before
46 the twelfth day of each month, the comptroller, after reserving such
47 fund, shall pay to the appropriate fiscal officer of each such county
48 and city and a designated officer of such town or village or city the
49 taxes, penalties and interest received and certified by the commissioner
50 for the preceding calendar month.

51 3. In addition to any other penalty provided in this article or other-
52 wise imposed by law: every person to whom adult-use cannabis products
53 are sold or transferred, and every person licensed as a microbusiness,
54 cooperative or registered organization under the cannabis law who fails
55 to maintain or make available to the commissioner the records required
56 by this section is subject to a penalty not to exceed five hundred

1 dollars for the first month or part thereof for which the failure
2 occurs. This penalty may not be imposed more than once for failures for
3 the same monthly period or part thereof. If the commissioner determines
4 that a failure to maintain or make available records in any month was
5 entirely due to reasonable cause and not to willful neglect, the commis-
6 sioner must remit the penalty for that month.

7 § 496. Returns to be kept secret. (a) Except in accordance with proper
8 judicial order or as in this section or otherwise provided by law, it
9 shall be unlawful for the commissioner, any officer or employee of the
10 department, or any officer or person who, pursuant to this section, is
11 permitted to inspect any return or report or to whom a copy, an abstract
12 or a portion of any return or report is furnished, or to whom any infor-
13 mation contained in any return or report is furnished, or any person who
14 in any manner may acquire knowledge of the contents of a return or
15 report filed pursuant to this article to divulge or make known in any
16 manner the content or any other information related to the business of
17 the wholesaler contained in any return or report required under this
18 article. The officers charged with the custody of such returns or
19 reports shall not be required to produce any of them or evidence of
20 anything contained in them in any action or proceeding in any court,
21 except on behalf of the state, the office of cannabis management, or the
22 commissioner in an action or proceeding involving the collection of tax
23 due under this chapter to which the state or the commissioner is a party
24 or a claimant or on behalf of any party to any action or proceeding
25 under the provisions of this article, when the returns or the reports or
26 the facts shown thereby are directly involved in such action or proceed-
27 ing, or in an action or proceeding related to the regulation or taxation
28 of adult-use cannabis products on behalf of officers to whom information
29 shall have been supplied as provided in this section, in any of which
30 events the courts may require the production of, and may admit in
31 evidence so much of said returns or reports or of the facts shown there-
32 by as are pertinent to the action or proceeding and no more. Nothing
33 herein shall be construed to prohibit the commissioner, in his or her
34 discretion, from allowing the inspection or delivery of a certified copy
35 of any return or report filed under this article or of any information
36 contained in any such return or report by or to a duly authorized offi-
37 cer or employee of the cannabis control board or by or to the attorney
38 general or other legal representatives of the state when an action shall
39 have been recommended or commenced pursuant to this chapter in which
40 such returns or reports or the facts shown thereby are directly
41 involved; or the inspection of the returns or reports required under
42 this article by the comptroller or duly designated officer or employee
43 of the state department of audit and control, for purposes of the audit
44 of a refund of any tax paid by the wholesaler under this article; nor to
45 prohibit the delivery to such person or a duly authorized representative
46 of such person, a certified copy of any return or report filed by such
47 person pursuant to this article, nor to prohibit the publication of
48 statistics so classified as to prevent the identification of particular
49 returns or reports and the items thereof. This section shall also not be
50 construed to prohibit the disclosure, for tax administration purposes,
51 to the division of the budget and the office of the state comptroller,
52 of information aggregated from the returns filed by all wholesalers
53 purchasing and selling such products in the state, whether the number of
54 such persons is one or more. Provided further that, notwithstanding the
55 provisions of this subdivision, the commissioner may in his or her
56 discretion, permit the proper officer of any county entitled to receive

1 any distribution of the monies received on account of the tax imposed by
2 subdivisions (b) and (c) of section four hundred ninety-three of this
3 article, or the authorized representative of such officer, to inspect
4 any return filed under this article, or may furnish to such officer or
5 the officer's authorized representative an abstract of any such return
6 or supply such officer or representative with information concerning an
7 item contained in any such return, or disclosed by any investigation of
8 tax liability under this article.

9 (b) The commissioner, in his or her discretion, may permit the appro-
10 priate officers of any other state that regulates or taxes cannabis or
11 the duly authorized representatives of such commissioner or of any such
12 officers, to inspect returns or reports made pursuant to this article,
13 or may furnish to the commissioner or other officer, or duly authorized
14 representatives, a copy of any such return or report or an abstract of
15 the information therein contained, or any portion thereof, or may supply
16 such commissioner or any such officers or such representatives with
17 information relating to the business of a wholesaler making returns or
18 reports hereunder solely for purposes of tax administration. The commis-
19 sioner may refuse to supply information pursuant to this subdivision to
20 the officers of any other state if the statutes of the state represented
21 by such officers do not grant substantially similar privileges to the
22 commissioner, but such refusal shall not be mandatory. Information shall
23 not be supplied to the appropriate officers of any state that regulates
24 or taxes cannabis, or the duly authorized representatives of such
25 commissioner or of any such officers, unless such commissioner, officer,
26 or other representatives shall agree not to divulge or make known in any
27 manner the information so supplied, but such officers may transmit such
28 information to their employees or legal representatives when necessary,
29 who in turn shall be subject to the same restrictions as those hereby
30 imposed upon such commissioner, officer or other representatives.

31 (c) 1. Any officer or employee of the state who willfully violates the
32 provisions of subdivision (a) or (b) of this section shall be dismissed
33 from office and be incapable of holding any public office in the state
34 for a period of five years thereafter.

35 2. For criminal penalties, see article thirty-seven of this chapter.

36 § 40. Subdivision (a) of section 1115 of the tax law is amended by
37 adding a new paragraph 3-b to read as follows:

38 (3-b) Adult-use cannabis products as defined by article twenty-C of
39 this chapter.

40 § 41. Section 12 of chapter 90 of the laws of 2014 amending the public
41 health law, the tax law, the state finance law, the general business
42 law, the penal law and the criminal procedure law relating to medical
43 use of marihuana, is amended to read as follows:

44 § 12. This act shall take effect immediately [~~and~~]; provided, however
45 that sections one, three, five, six, seven-a, eight, nine, ten and elev-
46 en of this act shall expire and be deemed repealed seven years after
47 such date; provided that the amendments to section 171-a of the tax law
48 made by section seven of this act shall take effect on the same date and
49 in the same manner as section 54 of part A of chapter 59 of the laws of
50 2014 takes effect and shall not expire and be deemed repealed; and
51 provided, further, that the amendments to subdivision 5 of section
52 410.91 of the criminal procedure law made by section eleven of this act
53 shall not affect the expiration and repeal of such section and shall
54 expire and be deemed repealed therewith.

55 § 42. The cannabis control board, in consultation with the division of
56 the budget, the department of taxation and finance, the department of

1 health, office of addiction services and supports, office of mental
2 health, New York state police and the division of criminal justice
3 services, shall conduct a study of the implementation of this act. Such
4 study shall examine all aspects of this act, including economic and
5 fiscal impacts, the impact on the public health and safety of New York
6 residents, the progress made in achieving social and economic justice
7 goals, and toward eliminating the illegal market for cannabis products
8 in New York. The board shall make recommendations regarding if the
9 changes to level of taxation of adult-use cannabis is appropriate, as
10 well as changes, if any, necessary to improve and protect the public
11 health and safety of New Yorkers. Such study shall be completed two
12 years after the effective date of this act and shall be presented to the
13 governor, the temporary president of the senate and the speaker of the
14 assembly, no later than October 1, 2023.

15 § 43. Section 102 of the alcoholic beverage control law is amended by
16 adding a new subdivision 8 to read as follows:

17 8. No alcoholic beverage retail licensee shall sell cannabis, as
18 defined in section three of the cannabis law, nor have or possess a
19 license or permit to sell cannabis, on the same premises where alcoholic
20 beverages are sold.

21 § 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the
22 general obligations law, as added by chapter 406 of the laws of 2000,
23 are amended to read as follows:

24 1. "Illegal drug" means any controlled substance [~~or marijuana~~] the
25 possession of which is an offense under the public health law or the
26 penal law.

27 4. "Grade one violation" means possession of one-quarter ounce or
28 more, but less than four ounces, or distribution of less than one ounce
29 of an illegal drug [~~other than marijuana, or possession of one pound or~~
30 ~~twenty-five plants or more, but less than four pounds or fifty plants,~~
31 ~~or distribution of less than one pound of marijuana~~].

32 5. "Grade two violation" means possession of four ounces or more, but
33 less than eight ounces, or distribution of one ounce or more, but less
34 than two ounces, of an illegal drug [~~other than marijuana, or possession~~
35 ~~of four pounds or more or fifty plants or distribution of more than one~~
36 ~~pound but less than ten pounds of marijuana~~].

37 6. "Grade three violation" means possession of eight ounces or more,
38 but less than sixteen ounces, or distribution of two ounces or more, but
39 less than four ounces, of a specified illegal drug [~~or possession of~~
40 ~~eight pounds or more or seventy-five plants or more, but less than~~
41 ~~sixteen pounds or one hundred plants, or distribution of more than five~~
42 ~~pounds but less than ten pounds of marijuana~~].

43 7. "Grade four violation" means possession of sixteen ounces or more
44 or distribution of four ounces or more of a specified illegal drug [~~or~~
45 ~~possession of sixteen pounds or more or one hundred plants or more or~~
46 ~~distribution of ten pounds or more of marijuana~~].

47 13. "Drug trafficker" means a person convicted of a class A or class B
48 felony controlled substance [~~or marijuana offense~~] who, in connection
49 with the criminal conduct for which he or she stands convicted,
50 possessed, distributed, sold or conspired to sell a controlled substance
51 [~~or marijuana~~] which, by virtue of its quantity, the person's prominent
52 role in the enterprise responsible for the sale or distribution of such
53 controlled substance and other circumstances related to such criminal
54 conduct indicate that such person's criminal possession, sale or
55 conspiracy to sell such substance was not an isolated occurrence and was
56 part of an ongoing pattern of criminal activity from which such person

1 derived substantial income or resources and in which such person played
2 a leadership role.

3 § 45. Paragraph (g) of subdivision 1 of section 488 of the social
4 services law, as added by section 1 of part B of chapter 501 of the laws
5 of 2012, is amended to read as follows:

6 (g) "Unlawful use or administration of a controlled substance," which
7 shall mean any administration by a custodian to a service recipient of:
8 a controlled substance as defined by article thirty-three of the public
9 health law, without a prescription; or other medication not approved for
10 any use by the federal food and drug administration, except for the
11 administration of medical cannabis when such administration is in
12 accordance with article three of the cannabis law. It also shall include
13 a custodian unlawfully using or distributing a controlled substance as
14 defined by article thirty-three of the public health law, at the work-
15 place or while on duty.

16 § 46. Paragraphs (e) and (f) of subdivision 1 of section 490 of the
17 social services law, as added by section 1 of part B of chapter 501 of
18 the laws of 2012, are amended and a new paragraph (g) is added to read
19 as follows:

20 (e) information regarding individual reportable incidents, incident
21 patterns and trends, and patterns and trends in the reporting and
22 response to reportable incidents is shared, consistent with applicable
23 law, with the justice center, in the form and manner required by the
24 justice center and, for facilities or provider agencies that are not
25 state operated, with the applicable state oversight agency which shall
26 provide such information to the justice center; ~~and~~

27 (f) incident review committees are established; provided, however,
28 that the regulations may authorize an exemption from this requirement,
29 when appropriate, based on the size of the facility or provider agency
30 or other relevant factors. Such committees shall be composed of members
31 of the governing body of the facility or provider agency and other
32 persons identified by the director of the facility or provider agency,
33 including some members of the following: direct support staff, licensed
34 health care practitioners, service recipients and representatives of
35 family, consumer and other advocacy organizations, but not the director
36 of the facility or provider agency. Such committee shall meet regularly
37 to: (i) review the timeliness, thoroughness and appropriateness of the
38 facility or provider agency's responses to reportable incidents; (ii)
39 recommend additional opportunities for improvement to the director of
40 the facility or provider agency, if appropriate; (iii) review incident
41 trends and patterns concerning reportable incidents; and (iv) make
42 recommendations to the director of the facility or provider agency to
43 assist in reducing reportable incidents. Members of the committee shall
44 be trained in confidentiality laws and regulations, and shall comply
45 with section seventy-four of the public officers law~~[-]~~; and

46 (g) safe storage, administration, and diversion prevention policies
47 regarding controlled substances and medical cannabis.

48 § 47. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal
49 law, as added by chapter 90 of the laws of 2014, are amended to read as
50 follows:

51 § 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; defi-
52 nitions.

53 The following definitions are applicable to this article:

54 1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis
55 as defined in [~~subdivision eight of section thirty-three hundred sixty~~
56 ~~of the public health law~~] section three of the cannabis law.

1 2. "Certification" means a certification, made under section [~~thirty-~~
2 ~~three hundred sixty one of the public health law~~] thirty of the cannabis
3 law.

4 § 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limita-
5 tions.

6 The provisions of this article shall not apply to:

7 1. a practitioner authorized to issue a certification who acted in
8 good faith in the lawful course of his or her profession; or

9 2. a registered organization as that term is defined in [~~subdivision~~
10 ~~nine of section thirty three hundred sixty of the public health law~~]
11 section thirty-four of the cannabis law who acted in good faith in the
12 lawful course of the practice of pharmacy; or

13 3. a person who acted in good faith seeking treatment for a medical
14 condition or assisting another person to obtain treatment for a medical
15 condition.

16 § 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first
17 degree.

18 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
19 bis in the first degree when he or she is a practitioner, as that term
20 is defined in [~~subdivision twelve of section thirty three hundred sixty~~
21 ~~of the public health law~~] section three of the cannabis law, who issues
22 a certification with knowledge of reasonable grounds to know that (i)
23 the recipient has no medical need for it, or (ii) it is for a purpose
24 other than to treat a [~~serious~~] condition as defined in [~~subdivision~~
25 ~~seven of section thirty three hundred sixty of the public health law~~]
26 section three of the cannabis law.

27 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree
28 is a class E felony.

29 § 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the
30 second degree.

31 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
32 bis in the second degree when he or she sells, trades, delivers, or
33 otherwise provides medical [~~marihuana~~] cannabis to another with know-
34 ledge or reasonable grounds to know that the recipient is not registered
35 under [~~title five A of article thirty three of the public health law~~]
36 article three of the cannabis law.

37 Criminal diversion of medical [~~marihuana~~] cannabis in the second
38 degree is a class B misdemeanor.

39 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

40 A person is guilty of criminal retention of medical [~~marihuana~~] canna-
41 bis when, being a certified patient or designated caregiver, as those
42 terms are defined in [~~subdivisions three and five of section thirty~~
43 ~~three hundred sixty of the public health law, respectively~~] section
44 three of the cannabis law, he or she knowingly obtains, possesses,
45 stores or maintains an amount of [~~marihuana~~] cannabis in excess of the
46 amount he or she is authorized to possess under the provisions of [~~title~~
47 ~~five A of article thirty three of the public health law~~] article three
48 of the cannabis law.

49 Criminal retention of medical [~~marihuana is a class A misdemeanor~~]
50 cannabis shall be punishable as provided in section 222.25 of this chap-
51 ter.

52 § 48. Section 220.78 of the penal law, as added by chapter 154 of the
53 laws of 2011, is amended to read as follows:

54 § 220.78 Witness or victim of drug or alcohol overdose.

55 1. A person who, in good faith, seeks health care for someone who is
56 experiencing a drug or alcohol overdose or other life threatening

1 medical emergency shall not be charged or prosecuted for a controlled
2 substance offense under this article [~~two hundred twenty~~] or a [~~marihua-~~
3 ~~na~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two
4 of this title, other than an offense involving sale for consideration or
5 other benefit or gain, or charged or prosecuted for possession of alco-
6 hol by a person under age twenty-one years under section sixty-five-c of
7 the alcoholic beverage control law, or for possession of drug parapher-
8 nalia under article thirty-nine of the general business law, with
9 respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or
10 paraphernalia that was obtained as a result of such seeking or receiving
11 of health care.

12 2. A person who is experiencing a drug or alcohol overdose or other
13 life threatening medical emergency and, in good faith, seeks health care
14 for himself or herself or is the subject of such a good faith request
15 for health care, shall not be charged or prosecuted for a controlled
16 substance offense under this article or a [~~marihuana~~] cannabis offense
17 under article two hundred [~~twenty-one~~] twenty-two of this title, other
18 than an offense involving sale for consideration or other benefit or
19 gain, or charged or prosecuted for possession of alcohol by a person
20 under age twenty-one years under section sixty-five-c of the alcoholic
21 beverage control law, or charged or prosecuted for possession of canna-
22 bis or concentrated cannabis by a person under the age of twenty-one
23 under section one hundred thirty-two of the cannabis law, or for
24 possession of drug paraphernalia under article thirty-nine of the gener-
25 al business law, with respect to any substance, [~~marihuana~~] cannabis,
26 alcohol or paraphernalia that was obtained as a result of such seeking
27 or receiving of health care.

28 3. Definitions. As used in this section the following terms shall have
29 the following meanings:

30 (a) "Drug or alcohol overdose" or "overdose" means an acute condition
31 including, but not limited to, physical illness, coma, mania, hysteria
32 or death, which is the result of consumption or use of a controlled
33 substance or alcohol and relates to an adverse reaction to or the quan-
34 tity of the controlled substance or alcohol or a substance with which
35 the controlled substance or alcohol was combined; provided that a
36 patient's condition shall be deemed to be a drug or alcohol overdose if
37 a prudent layperson, possessing an average knowledge of medicine and
38 health, could reasonably believe that the condition is in fact a drug or
39 alcohol overdose and (except as to death) requires health care.

40 (b) "Health care" means the professional services provided to a person
41 experiencing a drug or alcohol overdose by a health care professional
42 licensed, registered or certified under title eight of the education law
43 or article thirty of the public health law who, acting within his or her
44 lawful scope of practice, may provide diagnosis, treatment or emergency
45 services for a person experiencing a drug or alcohol overdose.

46 4. It shall be an affirmative defense to a criminal sale controlled
47 substance offense under this article or a criminal sale of [~~marihuana~~]
48 cannabis offense under article two hundred [~~twenty-one~~] twenty-two of
49 this title, not covered by subdivision one or two of this section, with
50 respect to any controlled substance or [~~marihuana~~] cannabis which was
51 obtained as a result of such seeking or receiving of health care, that:

52 (a) the defendant, in good faith, seeks health care for someone or for
53 him or herself who is experiencing a drug or alcohol overdose or other
54 life threatening medical emergency; and

1 (b) the defendant has no prior conviction for the commission or
2 attempted commission of a class A-I, A-II or B felony under this arti-
3 cle.

4 5. Nothing in this section shall be construed to bar the admissibility
5 of any evidence in connection with the investigation and prosecution of
6 a crime with regard to another defendant who does not independently
7 qualify for the bar to prosecution or for the affirmative defense; nor
8 with regard to other crimes committed by a person who otherwise quali-
9 fies under this section; nor shall anything in this section be construed
10 to bar any seizure pursuant to law, including but not limited to pursu-
11 ant to section thirty-three hundred eighty-seven of the public health
12 law.

13 6. The bar to prosecution described in subdivisions one and two of
14 this section shall not apply to the prosecution of a class A-I felony
15 under this article, and the affirmative defense described in subdivision
16 four of this section shall not apply to the prosecution of a class A-I
17 or A-II felony under this article.

18 § 49. Subdivision 1 of section 260.20 of the penal law, as amended by
19 chapter 362 of the laws of 1992, is amended as follows:

20 1. He knowingly permits a child less than eighteen years old to enter
21 or remain in or upon a place, premises or establishment where sexual
22 activity as defined by article one hundred thirty, two hundred thirty or
23 two hundred sixty-three of this [~~chapter~~ part or activity involving
24 controlled substances as defined by article two hundred twenty of this
25 [~~chapter or involving marijuana as defined by article two hundred twen-~~
26 ~~ty one of this chapter~~] part is maintained or conducted, and he knows or
27 has reason to know that such activity is being maintained or conducted;
28 or

29 § 50. Section 89-h of the state finance law, as added by chapter 90 of
30 the laws of 2014, is amended to read as follows:

31 § 89-h. Medical [~~marihuana~~ cannabis trust fund. 1. There is hereby
32 established in the joint custody of the state comptroller and the
33 commissioner of taxation and finance a special fund to be known as the
34 "medical [~~marihuana~~ cannabis trust fund."

35 2. The medical [~~marihuana~~ cannabis trust fund shall consist of all
36 moneys required to be deposited in the medical [~~marihuana~~ cannabis
37 trust fund pursuant to the provisions of section four hundred ninety of
38 the tax law.

39 3. The moneys in the medical [~~marihuana~~ cannabis trust fund shall be
40 kept separate and shall not be commingled with any other moneys in the
41 custody of the commissioner of taxation and finance and the state comp-
42 troller.

43 4. The moneys of the medical [~~marihuana~~ cannabis trust fund, follow-
44 ing appropriation by the legislature, shall be allocated upon a certifi-
45 cate of approval of availability by the director of the budget as
46 follows: (a) Twenty-two and five-tenths percent of the monies shall be
47 transferred to the counties in New York state in which the medical
48 [~~marihuana~~ cannabis was manufactured and allocated in proportion to the
49 gross sales originating from medical [~~marihuana~~ cannabis manufactured
50 in each such county; (b) twenty-two and five-tenths percent of the
51 moneys shall be transferred to the counties in New York state in which
52 the medical [~~marihuana~~ cannabis was dispensed and allocated in propor-
53 tion to the gross sales occurring in each such county; (c) five percent
54 of the monies shall be transferred to the office of [~~alcoholism and~~
55 ~~substance abuse services~~] addiction services and supports, which shall
56 use that revenue for additional drug abuse prevention, counseling and

1 treatment services; and (d) five percent of the revenue received by the
2 department shall be transferred to the division of criminal justice
3 services, which shall use that revenue for a program of discretionary
4 grants to state and local law enforcement agencies that demonstrate a
5 need relating to [~~title five A of article thirty three of the public~~
6 ~~health law~~] article three of the cannabis law; said grants could be used
7 for personnel costs of state and local law enforcement agencies. For
8 purposes of this subdivision, the city of New York shall be deemed to be
9 a county.

10 § 51. The state finance law is amended by adding three new sections
11 99-ii, 99-jj and 99-kk to read as follows:

12 § 99-ii. New York state cannabis revenue fund. 1. There is hereby
13 established in the joint custody of the state comptroller and the
14 commissioner of taxation and finance a special fund to be known as the
15 "New York state cannabis revenue fund".

16 2. Such fund shall consist of all revenues received by the department
17 of taxation and finance, pursuant to the provisions of article twenty-C
18 of the tax law and all other moneys appropriated thereto from any other
19 fund or source pursuant to law. Nothing contained in this section shall
20 prevent the state from receiving grants, gifts or bequests for the
21 purposes of the fund as defined in this section and depositing them into
22 the fund according to law.

23 3. The moneys in such fund shall be expended for the following
24 purposes:

25 (a) Reasonable costs incurred by the department of taxation and
26 finance for administering and collecting the taxes imposed by this part;
27 provided, however, such costs shall not exceed four percent of tax
28 revenues received.

29 (b) Reasonable costs incurred by the office of cannabis management and
30 the cannabis control board for implementing, administering, and enforc-
31 ing the marijuana regulation and taxation act.

32 (c) Actual and necessary costs incurred by the office of cannabis
33 management and the cannabis control board related to the administration
34 of incubators and other assistance to qualified social and economic
35 equity applicants including low and zero interest loans provided to such
36 applicants pursuant to section sixteen-ee of the urban development
37 corporation act. Such costs shall be paid out of revenues received,
38 including, but not limited to, from special one-time fees paid by regis-
39 tered organizations pursuant to section sixty-three of the cannabis law.

40 (d) Beginning with the two thousand twenty-two--two thousand twenty-
41 three fiscal year and continuing through the two thousand thirty-two--
42 two thousand thirty-three fiscal year, the commissioner of taxation and
43 finance shall annually disburse the following sums for the purposes of
44 data collection and reporting:

45 (i) Reasonable costs incurred by the office of cannabis management
46 policy to track and report data related to the licensing of cannabis
47 businesses, including the geographic location, structure, and function
48 of licensed cannabis businesses, and demographic data, including race,
49 ethnicity, and gender, of applicants and license holders. The cannabis
50 control board shall publish reports on its findings annually and shall
51 make the reports available to the public.

52 (ii) Reasonable costs incurred by the department of criminal justice
53 services to track and report data related to any infractions,
54 violations, or criminal convictions that occur under any of the remain-
55 ing cannabis statutes. The department of criminal justice services

1 shall publish reports on its findings annually and shall make the
2 reports available to the public.

3 (iii) Reasonable costs incurred by agencies of the state, including
4 the state university of New York to research and evaluate the implemen-
5 tation and effect of the cannabis law. No more than four percent of
6 these monies may be used for expenses related to administrative costs of
7 conducting such research, and to, if appropriate, make recommendations
8 to the legislature and governor regarding possible amendments to the
9 cannabis law. The recipients of these funds shall publish reports on
10 their findings at a minimum of every two years and shall make the
11 reports available to the public. The research funded pursuant to this
12 subdivision shall include but not necessarily be limited to:

13 (A) the impact on public health, including health costs associated
14 with cannabis use, as well as whether cannabis use is associated with an
15 increase or decrease in use of alcohol or other drugs;

16 (B) the impact of treatment for cannabis use disorder and the effec-
17 tiveness of different treatment programs;

18 (C) public safety issues related to cannabis use, including, but not
19 limited to studying the effectiveness of the packaging and labeling
20 requirements and advertising and marketing restrictions contained in the
21 act at preventing underage access to and use of cannabis and cannabis
22 products, and studying the health-related effects among users of varying
23 potency levels of cannabis and cannabis products;

24 (D) cannabis use rates, maladaptive use rates for adults and youth,
25 and diagnosis rates of cannabis-related substance use disorders;

26 (E) cannabis market prices, illicit market prices, tax structures and
27 rates, including an evaluation of how to best tax cannabis based on
28 potency, and the structure and function of licensed cannabis businesses;

29 (F) whether additional protections are needed to prevent unlawful
30 monopolies or anti-competitive behavior from occurring in the cannabis
31 industry and, if so, recommendations as to the most effective measures
32 for preventing such behavior;

33 (G) the economic impacts in the private and public sectors, including
34 but not necessarily limited to, job creation, workplace safety, reven-
35 ues, taxes generated for state and local budgets, and criminal justice
36 impacts, including, but not necessarily limited to, impacts on law
37 enforcement and public resources, short and long term consequences of
38 involvement in the criminal justice system, and state and local govern-
39 ment agency administrative costs and revenue;

40 (H) whether the regulatory agencies tasked with implementing and
41 enforcing the marihuana regulation and taxation act are doing so
42 consistent with the intent and purposes of the act, and whether differ-
43 ent agencies might do so more effectively; and

44 (I) any environmental impacts and hazards related to cannabis
45 production.

46 (e) Reasonable costs incurred by the state police to expand and
47 enhance the drug recognition expert training program and technologies
48 utilized in the process of maintaining road safety.

49 4. After the dispersal of moneys pursuant to subdivision three of this
50 section, the remaining moneys in the fund deposited during the prior
51 fiscal year shall be disbursed into the state lottery fund and two addi-
52 tional sub-funds created within the cannabis revenue fund known as the
53 drug treatment and public education fund and the community grants rein-
54 vestment fund, as follows:

55 (a) twenty-five percent shall be deposited in the state lottery fund
56 established by section ninety-two-c of this article; provided that such

1 moneys shall be distributed to the department of education in accordance
2 with subdivisions two and four of section ninety-two-c of this article
3 and shall not be utilized for the purposes of subdivision three of such
4 section. Monies allocated by this article may enhance, but shall not
5 supplant, existing dedicated funds to the department of education;

6 (b) twenty-five percent shall be deposited in the drug treatment and
7 public education fund established by section ninety-nine-jj of this
8 article; and

9 (c) fifty percent shall be deposited in the community grants reinvest-
10 ment fund established by section ninety-nine-kk of this article.

11 § 99-jj. New York state drug treatment and public education fund. 1.
12 There is hereby established in the joint custody of the state comp-
13 troller and the commissioner of taxation and finance a special fund to
14 be known as the "New York state drug treatment public education fund".

15 2. Such fund shall consist of revenues received pursuant to the
16 provisions of section ninety-nine-ii of this article and all other
17 moneys appropriated thereto from any other fund or source pursuant to
18 law. Nothing contained in this section shall prevent the state from
19 receiving grants, gifts or bequests for the purposes of the fund as
20 defined in this section and depositing them into the fund according to
21 law.

22 3. The moneys in such fund shall be expended to the commissioner of
23 the office of addiction services and supports and disbursed, in consul-
24 tation with the commissioner of the department of health and the commis-
25 sioner of education for the following purposes:

26 (a) To develop and implement a youth-focused public health education
27 and prevention campaign, including school-based prevention, early inter-
28 vention, and health care services and programs to reduce the risk of
29 cannabis and other substance use by school-aged children;

30 (b) To develop and implement a statewide public health campaign
31 focused on the health effects of cannabis and legal use, including an
32 ongoing education and prevention campaign that educates the general
33 public, including parents, consumers and retailers, on the legal use of
34 cannabis, the importance of preventing youth access, the importance of
35 safe storage and preventing secondhand cannabis smoke exposure, informa-
36 tion for pregnant or breastfeeding women, and the overconsumption of
37 edible cannabis products;

38 (c) To provide substance use disorder treatment programs for youth and
39 adults, with an emphasis on programs that are culturally and gender
40 competent, trauma-informed, evidence-based and provide a continuum of
41 care that includes screening and assessment (substance use disorder as
42 well as mental health), early intervention, active treatment, family
43 involvement, case management, overdose prevention, prevention of commu-
44 nicable diseases related to substance use, relapse management for
45 substance use and other co-occurring behavioral health disorders, voca-
46 tional services, literacy services, parenting classes, family therapy
47 and counseling services, medication-assisted treatments, psychiatric
48 medication and psychotherapy; and

49 (d) To evaluate the programs being funded to determine their effec-
50 tiveness.

51 4. On or before the first day of February each year, the commissioner
52 of the office of addiction services and supports shall provide a written
53 report to the temporary president of the senate, speaker of the assem-
54 bly, chair of the senate finance committee, chair of the assembly ways
55 and means committee, chair of the senate committee on alcoholism and
56 drug abuse, chair of the assembly alcoholism and drug abuse committee,

1 the state comptroller and the public. Such report shall detail how the
2 moneys of the fund were utilized during the preceding calendar year, and
3 shall include:

4 (a) the amount of money dispersed from the fund and the award process
5 used for such disbursements;

6 (b) recipients of awards from the fund;

7 (c) the amount awarded to each recipient of an award from the fund;

8 (d) the purposes for which such awards were granted; and

9 (e) a summary financial plan for such monies which shall include esti-
10 mates of all receipts and all disbursements for the current and succeed-
11 ing fiscal years, along with the actual results from the prior fiscal
12 year.

13 5. Moneys shall be payable from the fund on the audit and warrant of
14 the comptroller on vouchers approved and certified by the commissioner
15 of addiction services and supports.

16 § 99-kk. New York state community grants reinvestment fund. 1. There
17 is hereby established in the joint custody of the state comptroller and
18 the commissioner of taxation and finance a special fund to be known as
19 the "New York state community grants reinvestment fund".

20 2. Such fund shall consist of all revenues received pursuant to the
21 provisions of section ninety-nine-ii of this article and all other
22 moneys appropriated thereto from any other fund or source pursuant to
23 law. Nothing contained in this section shall prevent the state from
24 receiving grants, gifts or bequests for the purposes of the fund as
25 defined in this section and depositing them into the fund according to
26 law.

27 3. The fund shall be governed and administered by an executive steer-
28 ing committee of fifteen members, including the chief equity officer of
29 the office of cannabis management, who shall be the chair, a represen-
30 tative from the office of children and family services, the department
31 of labor, the department of health, the division of housing and communi-
32 ty renewal, and the office of addiction services and supports appointed
33 by the governor; a representative of the education department appointed
34 by the board of regents; two members appointed by the temporary presi-
35 dent of the senate; two members appointed by the speaker of the assem-
36 bly; one member appointed by the minority leader of the senate; one
37 member appointed by the minority leader of the assembly; one member
38 appointed by the comptroller; and one member appointed by the attorney
39 general. Every effort shall be made to ensure a balanced and diverse
40 committee representing the regions and demographics of the state, which
41 shall have expertise in job placement, homelessness and housing, behav-
42 ioral health and substance use disorder treatment, and effective rehabi-
43 litative treatment for adults and juveniles, and shall include represen-
44 tatives of organizations serving communities impacted by past federal
45 and state drug policies.

46 4. The moneys in such fund shall be administered by the office of
47 cannabis management and allocated by the executive steering committee to
48 provide grants for qualified community-based nonprofit organizations and
49 approved local government entities for the purpose of reinvesting in
50 communities disproportionately affected by past federal and state drug
51 policies. Such grants shall be used, including but not limited to, to
52 support job placement, job skills services, adult education, mental
53 health treatment, substance use disorder treatment, housing, financial
54 literacy, community banking, nutrition services, services to address
55 adverse childhood experiences, afterschool and child care services,
56 system navigation services, legal services to address barriers to

1 reentry, including, but not limited to, providing representation and
2 related assistance with expungement, vacatur, substitution and resen-
3 tencing of marihuana-related convictions, and linkages to medical care,
4 women's health services and other community-based supportive services.
5 The grants from this program may also be used to further support the
6 social and economic equity program created by article four of the canna-
7 bis law and as established by the cannabis control board.

8 5. On or before the first day of February each year, the office of
9 cannabis management shall provide a written report to the temporary
10 president of the senate, speaker of the assembly, chair of the senate
11 finance committee, chair of the assembly ways and means committee, chair
12 of the senate committee on children and families, chair of the assembly
13 children and families committee, chair of the senate committee on labor,
14 chair of the assembly labor committee, chair of the senate committee on
15 health, chair of the assembly health committee, chair of the senate
16 committee on education, chair of the assembly education committee, the
17 state comptroller and the public. Such report shall detail how the
18 monies of the fund were utilized during the preceding calendar year, and
19 shall include:

20 (a) the amount of money available and dispersed from the fund and the
21 award process used for such disbursements;

22 (b) recipients of awards from the fund;

23 (c) the amount awarded to each recipient of an award from the fund;

24 (d) the purposes for which such awards were granted; and

25 (e) a summary financial plan for such monies which shall include esti-
26 mates of all receipts and all disbursements for the current and succeed-
27 ing fiscal years, along with the actual results from the prior fiscal
28 year.

29 6. Moneys shall be payable from the fund on the audit and warrant of
30 the comptroller on vouchers approved and certified by the office of
31 cannabis management.

32 § 52. Paragraphs (a), (b) and (c) of subdivision 3-a of section 390-b
33 of the social services law, as added by section 9 of part H of chapter
34 56 of the laws of 2019, are amended to read as follows:

35 (a) In relation to child day care programs and any enrolled legally-
36 exempt provider, when a clearance conducted pursuant to this section
37 reveals that any existing operator, director, caregiver, or person over
38 the age of eighteen who is not related in any way to all children for
39 whom child care services are or will be provided, that resides in a home
40 where child care is provided in a home setting where the child does not
41 reside has been convicted of a crime other than one set forth in subpar-
42 agraph (iv) of paragraph (a) of subdivision three of this section, and
43 unless such crime is eligible for expungement pursuant to section 160.50
44 of the criminal procedure law, the office of children and family
45 services shall conduct a safety assessment of the program and take all
46 appropriate steps to protect the health and safety of the children in
47 the program, and may deny, limit, suspend, revoke or reject such
48 program's license or registration or terminate or reject such program's
49 enrollment, as applicable, unless the office of children and family
50 services, determines in its discretion, that continued operation by the
51 child day care program or enrolled legally-exempt provider will not in
52 any way jeopardize the health, safety or welfare of the children cared
53 for in the program or by the provider.

54 (b) In relation to child day care programs and any enrolled legally-
55 exempt provider, when a clearance conducted pursuant to this section
56 reveals that any existing employee or volunteer with the potential for

1 unsupervised contact with children has been convicted of a crime other
2 than one set forth in subparagraph (iv) of paragraph (a) of subdivision
3 three of this section, and unless such crime is eligible for expungement
4 pursuant to section 160.50 of the criminal procedure law, the office of
5 children of family services shall conduct a safety assessment of the
6 program and take all appropriate steps to protect the health and safety
7 of the children in the program. The office of children and family
8 services may direct the program or provider to terminate the employee or
9 volunteer based on such a conviction, consistent with article
10 twenty-three-A of the correction law.

11 (c) (i) In relation to any child day care programs and any enrolled
12 legally-exempt providers, where a clearance conducted pursuant to this
13 section reveals a conviction for a crime other than one set forth in
14 subparagraph (iv) of paragraph (a) of subdivision three of this section,
15 and unless such crime is eligible for expungement pursuant to section
16 160.50 of the criminal procedure law, for any prospective employee or
17 volunteer, the office of children and family services may direct that
18 such person not be hired, as applicable, based on such a conviction,
19 consistent with article twenty-three-A of the correction law.

20 (ii) In relation to any child day care program and any enrolled legal-
21 ly-exempt provider, when a clearance conducted pursuant to this section
22 reveals a conviction for a crime other than one set forth in subpara-
23 graph (iv) of paragraph (a) of subdivision three of this section, and
24 unless such crime is eligible for expungement pursuant to section 160.50
25 of the criminal procedure law, for any prospective caregiver seeking
26 enrollment, or applicant to be a director or operator, the office of
27 children and family services may deny the application or enrollment,
28 consistent with article twenty-three-A of the correction law.

29 § 53. Subparagraph 1 of paragraph (e) of subdivision 2 of section
30 378-a of the social services law, as amended by section 10 of part L of
31 chapter 56 of the laws of 2015, is amended to read as follows:

32 (1) Notwithstanding any other provision of law to the contrary, an
33 application for certification or approval of a prospective foster parent
34 or prospective adoptive parent shall be denied and, in the event of
35 death or incapacity of a relative guardian, an agreement to provide
36 payments to a prospective successor guardian pursuant to title ten of
37 this article shall not be approved pursuant to subparagraph (ii) of
38 paragraph (b) of subdivision five of section four hundred fifty-eight-b
39 of this article, as applicable, where a criminal history record of the
40 prospective foster parent, prospective adoptive parent or prospective
41 successor guardian, as applicable, reveals a conviction for:

42 (A) a felony conviction at any time involving: (i) child abuse or
43 neglect; (ii) spousal abuse; (iii) a crime against a child, including
44 child pornography; or (iv) a crime involving violence, including rape,
45 sexual assault, or homicide, other than a crime involving physical
46 assault or battery; or

47 (B) a felony conviction within the past five years for physical
48 assault, battery, or a drug-related offense, unless such offense is
49 eligible for expungement pursuant to section 160.50 of the criminal
50 procedure law; or

51 § 54. Paragraph (b) of subdivision 4 of section 132 of the social
52 services law, as added by section 23 of part B of chapter 436 of the
53 laws of 1997, is amended to read as follows:

54 (b) When the screening process indicates that there is reason to
55 believe that an applicant or recipient is abusing or dependent on alco-
56 hol or drugs, the social services district shall require a formal alco-

1 hol or substance abuse assessment, which may include drug testing, to be
2 performed by an alcohol and/or substance abuse professional credentialed
3 by the office of [~~alcoholism and substance abuse services~~] addiction
4 services and supports. Provided however, if the applicant or recipient
5 tests positive for the presence of cannabis, the positive result alone
6 shall not be sufficient to establish a dependence for purposes of
7 requiring an individual to participate in a treatment program pursuant
8 to paragraph (c) of this subdivision. The assessment may be performed
9 directly by the district or pursuant to contract with the district.

10 § 55. Subdivision 6 of section 422 of the social services law, as
11 amended by section 7 of part D of chapter 501 of the laws of 2012, is
12 amended to read as follows:

13 6. In all other cases, the record of the report to the statewide
14 central register shall be expunged ten years after the eighteenth birth-
15 day of the youngest child named in the report. In the case of a child in
16 residential care the record of the report to the statewide central
17 register shall be expunged ten years after the reported child's eigh-
18 teenth birthday. In any case and at any time, the commissioner of the
19 office of children and family services may amend any record upon good
20 cause shown and notice to the subjects of the report and other persons
21 named in the report. Provided however, any report indicated for
22 maltreatment based solely on the purchase, possession or consumption of
23 cannabis, without a showing that the child's physical, mental or
24 emotional condition was impaired or was in imminent danger of becoming
25 impaired established by a fair preponderance of the evidence shall imme-
26 diately be sealed upon a request pursuant to subdivision eight of this
27 section or section four hundred twenty-four-a of this title.

28 § 56. Intentionally omitted.

29 § 57. Subdivision (a) of section 712 of the family court act, as
30 amended by section 1 of part K of chapter 56 of the laws of 2019, is
31 amended to read as follows:

32 (a) "Person in need of supervision". A person less than eighteen years
33 of age: (i) who does not attend school in accordance with the provisions
34 of part one of article sixty-five of the education law; (ii) who is
35 incorrigible, ungovernable or habitually disobedient and beyond the
36 lawful control of a parent or other person legally responsible for such
37 child's care, or other lawful authority; (iii) who violates the
38 provisions of [~~+(1) section 221.05, or (2)~~] section 230.00 of the penal
39 law; (iv) or who appears to be a sexually exploited child as defined in
40 paragraph (a), (c) or (d) of subdivision one of section four hundred
41 forty-seven-a of the social services law, but only if the child consents
42 to the filing of a petition under this article.

43 § 58. Paragraph (iii) of subdivision (a) of section 1046 of the family
44 court act, as amended by chapter 984 of the laws of 1981, is amended to
45 read as follows:

46 (iii) proof that a person repeatedly misuses a drug or drugs or alco-
47 holic beverages, to the extent that it has or would ordinarily have the
48 effect of producing in the user thereof a substantial state of stupor,
49 unconsciousness, intoxication, hallucination, disorientation, or incom-
50 petence, or a substantial impairment of judgment, or a substantial
51 manifestation of irrationality, shall be prima facie evidence that a
52 child of or who is the legal responsibility of such person is a
53 neglected child except that such drug, or alcoholic beverage misuse
54 shall not be prima facie evidence of neglect when such person is volun-
55 tarily and regularly participating in a recognized rehabilitative
56 program. Provided however, the sole fact that an individual consumes

1 cannabis, without a separate finding that the child's physical mental or
2 emotional condition was impaired or is in imminent danger of becoming
3 impaired established by a fair preponderance of the evidence shall not
4 be sufficient to establish prima facie evidence of neglect; and

5 § 59. Section 1 of chapter 174 of the laws of 1968, constituting the
6 New York state urban development corporation act, is amended by adding a
7 new section 16-ee to read as follows:

8 § 16-ee. Loans to social and economic equity applicants. The corpo-
9 ration is authorized and directed, on the recommendation of the state
10 cannabis control board, to provide low interest or zero-interest loans
11 to qualified social and economic equity applicants as provided for in
12 article four of the cannabis law.

13 § 60. The division of state police shall, subject to available appro-
14 priations, increase the number of trained and certified drug recognition
15 experts within the state, and provide increased drug recognition aware-
16 ness training under its drug recognition program. The department of
17 health shall, subject to available appropriations, review available
18 technologies approved for utilization in the recognition of drug impair-
19 ment by operators of motor vehicles, with a focus on specific technology
20 to recognize acute impairment as compared to habitual cannabis usage and
21 submit a report on such technologies to the governor and the legislature
22 by March 1, 2022.

23 § 61. The commissioner of education shall, subject to available appro-
24 priations, establish a grant program to provide awards to school
25 districts and boards of cooperative educational services for the purpose
26 of establishing school-based programs for initiatives such as anti-vap-
27 ing programs, drug prevention and awareness programs, the use of liquid
28 cannabis in vaping products, and the over-consumption of edible products
29 that contain cannabis. Provided that such grants shall be awarded by the
30 commissioner of education to applicants based on factors including but
31 not limited to: (A) community and parental engagement; (B) the appli-
32 cant's program design to meet the specific needs of students; and (C)
33 proposal quality. Provided further, that such funds shall only be used
34 to supplement, and not supplant, current local expenditures of federal,
35 state or local funds. Provided further, that no district or board of
36 cooperative educational services shall receive a grant in excess of the
37 total actual grant expenditures incurred by the school district or board
38 of cooperative educational services in the current school year, as
39 approved by the commissioner of education.

40 § 62. The commissioner of the office of addiction services and
41 supports, in consultation with the commissioner of health and the
42 commissioner of education, shall, subject to available appropriations,
43 immediately to the extent possible execute the activities described in
44 subdivision 3 of section 99-jj of the state finance law, as added by
45 section fifty-one of this act.

46 § 63. Severability. If any provision or term of this act is for any
47 reason declared unconstitutional or invalid or ineffective by any compe-
48 tent jurisdiction, such decision shall not affect the validity of the
49 effectiveness of the remaining portions of this act or any part thereof.

50 § 64. This act shall take effect immediately; provided, however, that
51 sections six and six-a of this act shall take effect six months after
52 the full cannabis control board created by article two of the cannabis
53 law has been appointed and provided that the governor shall notify the
54 legislative bill drafting commission upon such full appointment in order
55 that the commission may maintain an accurate and timely effective data
56 base of the official text of the laws of the state of New York in furth-

1 erance of effectuating the provisions of section 44 of the legislative
2 law and section 70-b of the public officers law; provided, further that
3 the expungement of marihuana convictions under section 160.50 of the
4 criminal procedure law, added by the amendment in section seventeen of
5 this act, shall occur promptly and in any event no later than one year
6 after the effective date of this act; and provided, further, that
7 sections thirty-nine and forty of this act shall take effect April 1,
8 2022, and shall apply on and after such date to the sale or transfer of
9 adult-use cannabis products to a retail dispensary; provided, further,
10 that the amendments to article 179 of the penal law made by section
11 forty-seven of this act shall not affect the repeal of such article and
12 shall be deemed to be repealed therewith; provided, further, that the
13 amendments to section 89-h of the state finance law made by section
14 fifty of this act shall not affect the repeal of such section and shall
15 be deemed repealed therewith.