

# STATE OF NEW YORK

---

854

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

---

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

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

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

LBD02565-02-1

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

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

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

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

CHAPTER 7-A OF THE CONSOLIDATED LAWS

CANNABIS LAW

ARTICLE 1

SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT;

DEFINITIONS

Section 1. Short title.

2. Legislative findings and intent.

3. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

## ARTICLE 2

### NEW YORK STATE CANNABIS CONTROL BOARD

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

8. Establishment of an office of cannabis management.

9. Executive director.

10. Powers and duties of the cannabis control board.

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

12. Chief equity officer.

13. Rulemaking authority.

14. State cannabis advisory board.

15. Disposition of moneys received for license fees.

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

17. Formal hearings; notice and procedure.

18. Ethics, transparency and accountability.

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

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

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;

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

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

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

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

(g) any other information or data deemed significant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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;

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

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

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

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

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

(a) in the case of a certified patient:

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

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

(iii) the date of the certification;

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

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

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

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

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

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

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

(b) in the case of a designated caregiver:

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

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

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

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

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

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

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

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

27 3. Each registered organization shall contract with an independent  
28 laboratory permitted by the board to test the medical cannabis produced  
29 by the registered organization. The board shall approve the 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 design-  
6 nated caregiver, the registered organization: (i) shall not dispense an  
7 amount greater than a sixty-day supply to a certified patient until the  
8 certified patient has exhausted all but a seven day supply provided  
9 pursuant to a previously issued certification; and (ii) shall verify the  
10 information in subparagraph (i) of this paragraph by consulting the  
11 prescription monitoring program registry under this article.

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

16 6. When a registered organization sells, delivers, distributes or  
17 dispenses medical cannabis to a certified patient or designated caregiv-  
18 er, it shall provide to that individual a safety insert, 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.



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

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

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

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

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

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

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

(ii) that the applicant:

(A) is of good moral character;

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

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

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.

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

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

(a) application requirements;

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

(c) conditions for license revocation;

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

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

(f) licensee reporting requirements;

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

- (a) the applicant is a social and economic equity applicant;
- (b) the applicant will be able to maintain effective control against the illegal diversion of cannabis;
- (c) the applicant will be able to comply with all applicable state laws and regulations;
- (d) the applicant and its officers are ready, willing, and able to properly carry on the activities for which a license is sought including with assistance from the social and economic equity and incubator program, if applicable;
- (e) the applicant possesses or has the right to use sufficient land, buildings, and equipment to properly carry on the activity described in the application or has a plan to do so if qualifying as a social and economic equity applicant;
- (f) the applicant qualifies as a social and economic equity applicant or sets out a plan for benefiting communities and people disproportionately 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.

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

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

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

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

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

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

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

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

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

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

1. Licenses issued pursuant to this article shall specify:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

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.

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

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

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

1. The name and address of the licensee;

2. The activities permitted by the license;

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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.

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

(c) description by street and number, or otherwise, of licensed premises; and

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

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

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

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

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

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

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

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

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

3. The owner of a laboratory testing permit under this section shall not hold a permit, registration or license in any category of this chapter and shall not have any direct or indirect ownership interest in such registered organization or licensee. No board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization or licensee under this chapter, or such person's immediate family member, shall have an interest or voting rights in any laboratory testing permittee.

4. The board shall require that the permitted laboratory report testing results to the board in a manner, form and timeframe as determined by the office.

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



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

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

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

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

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

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

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

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

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

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

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 anothe-  
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

standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[5-]~~ (f) Cigar bars that, in the calendar year ending December thirty-first, two thousand two, generated ten percent or more of its

total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the appropriate enforcement officer, as defined in subdivision one of section thirteen hundred ninety-nine-t of this article. Such registration shall remain in effect for one year and shall be renewable only if: (a) in the preceding calendar year, the cigar bar generated ten percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (b) the cigar bar has not expanded its size or changed its location from its size or location since December thirty-first, two thousand two;

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

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

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

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

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

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

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

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

§ 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs (a) and (b) of subdivision 11 of section 1311 of the civil practice law



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.



222.05 Personal use of cannabis.

222.10 Restrictions on cannabis use.

222.15 Personal cultivation of cannabis.

222.20 Licensing of cannabis production and distribution; defense.

222.25 Unlawful possession of cannabis.

222.30 Criminal possession of cannabis in the third degree.

222.35 Criminal possession of cannabis in the second degree.

222.40 Criminal possession of cannabis in the first degree.

222.45 Unlawful sale of cannabis.

222.50 Criminal sale of cannabis in the third degree.

222.55 Criminal sale of cannabis in the second degree.

222.60 Criminal sale of cannabis in the first degree.

222.65 Aggravated criminal sale of cannabis.

§ 222.00 Cannabis; definitions.

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

2. "Concentrated cannabis" means:

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

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

3. For the purposes of this article, "sell" shall mean to sell, exchange or dispose of for compensation. "Sell" shall not include the transfer of cannabis or concentrated cannabis between persons twenty-one years of age or older without compensation in the quantities authorized in paragraph (b) of subdivision one of section 222.05 of this article.

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

§ 222.05 Personal use of cannabis.

Notwithstanding any other provision of law to the contrary:

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

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

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

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

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.

Aggravated criminal sale of cannabis is a class C felony.

§ 17. Paragraph (k) of subdivision 3 of section 160.50 of the criminal procedure law, as amended by chapter 132 of the laws of 2019, is amended to read as follows:

(k) (i) The conviction was for a violation of article two hundred twenty or section 240.36 of the penal law prior to the effective date of article two hundred twenty-one of the penal law, and the sole controlled substance involved was marihuana and the conviction was only for a misdemeanor and/or violation [~~or violations~~]; or

(ii) the conviction is for an offense defined in section 221.05 or 221.10 of the penal law prior to the effective date of [~~the~~] chapter one hundred thirty-two of the laws of two thousand nineteen [~~that amended this paragraph~~]; or

(iii) the conviction is for an offense defined in [~~section~~] former sections 221.05 [~~or~~], 221.10, 221.15, 221.20, 221.35, or 221.40 of the penal law; or

(iv) the conviction was for a violation of section 220.03 or 220.06 of the penal law prior to the effective date of the chapter of the laws of two thousand twenty-one that amended this paragraph, and the sole controlled substance involved was concentrated cannabis; or

(v) the conviction is for an offense defined in sections 222.10, 222.15, 222.25 or 222.45 of the penal law.

No defendant shall be required or permitted to waive eligibility for sealing or expungement pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of [~~section 221.05~~] sections 222.10, 222.15, 222.25 or 222.45 of the penal law and any such waiver shall be deemed void and wholly unenforceable.

§ 18. Paragraph (k) of subdivision 1 of section 440.10 of the criminal procedure law, as added by chapter 132 of the laws of 2019, is amended to read as follows:

(k) The judgment occurred prior to the effective date of the laws of two thousand twenty-one that amended this paragraph and is a conviction for an offense as defined in subparagraphs (i) [~~or~~], (ii), (iii) or (iv) of paragraph (k) of subdivision three of section 160.50 of this part, in which case the court shall presume that a conviction by plea for the aforementioned offenses was not knowing, voluntary and intelligent if it has severe or ongoing consequences, including but not limited to potential or actual immigration consequences, and shall presume that a conviction by verdict for the aforementioned offenses constitutes cruel and unusual punishment under section five of article one of the state constitution, based on those consequences. The people may rebut these presumptions.

§ 19. Intentionally omitted.

§ 20. Intentionally omitted.

§ 21. Intentionally omitted.

§ 22. Subdivision 1 of section 170.56 of the criminal procedure law, as amended by chapter 360 of the laws of 1977, is amended to read as follows:

1. Upon or after arraignment in a local criminal court upon an information, a prosecutor's information or a misdemeanor complaint, where the sole remaining count or counts charge a violation or violations of section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 220.10, 222.15, 222.25, 222.30, 222.45 or 222.50 of the penal law, or upon summons for a nuisance offense under section sixty-five-c of the alcoholic beverage control law and before the entry of a plea of guilty thereto or



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 subdi-  
20 vision, 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 subdivi-  
33 sion, 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~~



~~the penal law,~~] promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

§ 26. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and 9 of section 1310 of the civil practice law and rules, paragraphs (b) and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984, are amended to read as follows:

(b) on three or more occasions, engaging in conduct constituting a violation of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41~~[,]~~ or 220.43 ~~[or 221.55]~~ of the penal law, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34 or 220.39 of the penal law, ~~[or a conviction of a criminal defendant for a violation of section 221.30 of the penal law,~~ or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances ~~[or where the conviction is for a violation of section 221.30 of the penal law, marijuana,~~ as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance ~~[or where the conviction is for a violation of section 221.30 of the penal law, marijuana,~~ that such possession was with the intent to sell it.

~~[6. "Pre-conviction forfeiture crime" means only a felony defined in article two hundred twenty or section 221.30 or 221.55 of the penal law.]~~

9. "Criminal defendant" means a person who has criminal liability for a crime defined in ~~[subdivisions]~~ subdivision five ~~[and six hereof]~~ of this section. For purposes of this article, a person has criminal liability when ~~[(a)]~~ he has been convicted of a post-conviction forfeiture crime~~, or (b) the claiming authority proves by clear and convincing evidence that such person has committed an act in violation of article two hundred twenty or section 221.30 or 221.55 of the penal law]~~.

§ 27. Subdivision 13 of section 89-f of the general business law, as added by chapter 336 of the laws of 1992, is amended to read as follows:

13. "Serious offense" shall mean any felony involving the offenses enumerated in the closing paragraph of this subdivision; a criminal solicitation of or a conspiracy to commit or an attempt to commit or a criminal facilitation of a felony involving the offenses enumerated in the closing paragraph of this subdivision, which criminal solicitation, conspiracy, attempt or criminal facilitation itself constitutes a felony

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:

7. "Designated offender" means a person convicted of any felony defined in any chapter of the laws of the state or any misdemeanor defined in the penal law [~~except that where the person is convicted under section 221.10 of the penal law, only a person convicted under subdivision two of such section, or a person convicted under subdivision one of such section who stands previously convicted of any crime as defined in subdivision six of section 10.00 of the penal law~~].

§ 31. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the penal law, paragraph (b) as amended by section 31 of part AAA of chapter 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the laws of 1990, are amended to read as follows:

(b) three or more violations of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43[~~7~~] or 220.77[~~7~~, ~~or 221.55~~] of this chapter, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34[~~7~~] or 220.39[~~7~~, ~~or 221.30~~] of this chapter, or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances [~~or where the conviction is for a violation of section 221.30 of this chapter, marijuana~~] as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance [~~or where the conviction is for a violation of section 221.30 of this chapter, marijuana~~], that such possession was with the intent to sell it.

§ 32. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~] subdivision two of section 222.50, subdivision two of section 222.55, 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any

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~~



~~of the public health law shall apply to this article.] For purposes of this article, the terms "medical cannabis," "registered organization," "certified patient," and "designated caregiver" shall have the same definitions as in section three of the cannabis law.~~

(b) As used in this section, where not otherwise specifically defined and unless a different meaning is clearly required "gross receipt" means the amount received in or by reason of any sale, conditional or otherwise, of medical [~~marihuana~~] cannabis or in or by reason of the furnishing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~] cannabis provided by a registered organization to a certified patient or designated caregiver. Gross receipt is expressed in money, whether paid in cash, credit or property of any kind or nature, and shall be determined without any deduction therefrom on account of the cost of the service sold or the cost of materials, labor or services used or other costs, interest or discount paid, or any other expenses whatsoever. "Amount received" for the purpose of the definition of gross receipt, as the term gross receipt is used throughout this article, means the amount charged for the provision of medical [~~marihuana~~] cannabis.

2. There is hereby imposed an excise tax on the gross receipts from the sale of medical [~~marihuana~~] cannabis by a registered organization to a certified patient or designated caregiver, to be paid by the registered organization, at the rate of seven percent. The tax imposed by this article shall be charged against and be paid by the registered organization and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

3. The commissioner may make, adopt and amend rules, regulations, procedures and forms necessary for the proper administration of this article.

4. Every registered organization that makes sales of medical [~~marihuana~~] cannabis subject to the tax imposed by this article shall, on or before the twentieth date of each month, file with the commissioner a return on forms to be prescribed by the commissioner, showing its receipts from the retail sale of medical [~~marihuana~~] cannabis during the preceding calendar month and the amount of tax due thereon. Such returns shall contain such further information as the commissioner may require. Every registered organization required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due on its retail sales of medical [~~marihuana~~] cannabis for the period covered by such return. If a return is not filed when due, the tax shall be due on the day on which the return is required to be filed.

5. Whenever the commissioner shall determine that any moneys received under the provisions of this article were paid in error, he may cause the same to be refunded, with interest, in accordance with such rules and regulations as he may prescribe, except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter, or if no rate is set, at the rate of six percent per annum, from the date when the tax, penalty or interest to be refunded was paid to a date preceding the date of the refund check by not more than thirty days. Provided, however, that for the purposes of this subdivision, any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. Such moneys received under the provisions of this article which the commissioner shall deter-

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~~



~~revenue of the United States or~~ the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~ cannabis], or the duly authorized representatives [~~of such commissioner or~~] of any of such officers, unless such [~~commissioner,~~] officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such [~~commissioner,~~] officer or other representatives.

3. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 39. The tax law is amended by adding a new article 20-C to read as follows:

#### ARTICLE 20-C

##### TAX ON ADULT-USE CANNABIS PRODUCTS

##### Section 492. Definitions.

##### 493. Tax on cannabis.

##### 494. Registration and renewal.

##### 495. Returns and payment of tax.

##### 496. Returns to be kept secret.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Cannabis" shall have the same meaning as in section three of the cannabis law. For purposes of this article, cannabis does not include medical cannabis or cannabinoid hemp and hemp extract as defined in section three of the cannabis law.

(b) "Cannabis product" or "adult-use cannabis product" means a cannabis product as defined in section three of the cannabis law. For purposes of this article, under no circumstances shall adult-use cannabis product include medical cannabis or cannabinoid hemp and hemp extract as defined in section three of the cannabis law.

(c) "Person" means every individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(d) "Retail dispensary" means a dispensary licensed to sell adult-use cannabis products pursuant to section seventy-two of the cannabis law.

(e) "Transfer" means to grant, convey, hand over, assign, sell, exchange or barter, in any manner or by any means, with or without consideration.

(f) "Sale" means any transfer of title, possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefor.

§ 493. Tax on cannabis. (a) There is hereby imposed a tax on the sale or transfer of adult-use cannabis products by any person to a retail dispensary at the rate of eighteen percent of the amount charged by such person for adult-use cannabis products, which shall accrue at the time of such sale or transfer. Where the retail dispensary is operated by a person licensed under the cannabis law as a registered organiza-

tion, such tax shall be paid by the retail dispensary at the rate of eighteen percent of the price charged to the retail customer and shall accrue at the time of such sale.

(b) In addition to the taxes imposed by subdivision (a) of this section, there is hereby imposed a tax on the sale or transfer of adult-use cannabis products by any person to a retail dispensary at the rate of one percent of the amount charged by such person for such adult-use cannabis products, which shall accrue at the time of such sale or transfer. The tax imposed by this subdivision shall be in trust for and on account of a city having a population of one million or more, or a county, other than a county wholly within such a city, in which the retail dispensary is located. Where the retail dispensary is operated by a person licensed under the cannabis law as a registered organization, such tax shall be paid by the retail dispensary at the rate of one percent of the price charged to the retail customer.

(c) In addition to the taxes imposed by subdivisions (a) and (b) of this section, there is hereby imposed a tax on the sale or transfer of adult-use cannabis products by any person to a retail dispensary at the rate of three percent of the amount charged by such person for such adult-use cannabis products, which shall accrue at the time of such sale or transfer. The tax imposed by this subdivision shall be in trust for and on account of the town, village, or city in which the retail dispensary is located. Where the retail dispensary is operated by a person licensed under the cannabis law as a registered organization, such tax shall be paid by the retail dispensary at the rate of three percent of the price charged to the retail customer.

(d) It shall be presumed that all adult-use cannabis products within the state are subject to tax until the contrary is established, and the burden of proof that the taxes imposed by subdivisions (a), (b) and (c) of this section have been paid shall be upon the person in possession thereof where such person holds any license under the cannabis law. Every person holding a license under the cannabis law who possesses adult-use cannabis products upon which such taxes have not been paid shall be liable for the payment of such taxes, and the failure of such person to produce to the commissioner or his or her authorized representative upon demand an invoice for any adult-use cannabis products in his or her possession shall be presumptive evidence that the tax thereon has not been paid and that such person is liable for the tax thereon, unless evidence of such invoice or payment is later produced.

(e) Notwithstanding any other provision of law to the contrary, the taxes imposed by article twenty of this chapter shall not apply to any product subject to tax under this article.

§ 494. Registration and renewal. (a) Every person to whom adult-use cannabis products are sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law must file with the commissioner a properly completed application for a certificate of registration before engaging in business. In order to apply for such certificate of registration, such person must first be in possession of a valid license from the office of cannabis management. An application for a certificate of registration must be submitted electronically, on a form prescribed by the commissioner, and must be accompanied by a non-refundable application fee of six hundred dollars. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon such person ceasing to do business as specified in such certificate, or in the event that such business never commenced.

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.



2. "Certification" means a certification, made under section ~~[thirty-three hundred sixty-one of the public health law]~~ thirty of the cannabis law.

§ 179.05 Criminal diversion of medical ~~[marihuana]~~ cannabis; limitations.

The provisions of this article shall not apply to:

1. a practitioner authorized to issue a certification who acted in good faith in the lawful course of his or her profession; or

2. a registered organization as that term is defined in ~~[subdivision nine of section thirty-three hundred sixty of the public health law]~~ section thirty-four of the cannabis law who acted in good faith in the lawful course of the practice of pharmacy; or

3. a person who acted in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition.

§ 179.10 Criminal diversion of medical ~~[marihuana]~~ cannabis in the first degree.

A person is guilty of criminal diversion of medical ~~[marihuana]~~ cannabis in the first degree when he or she is a practitioner, as that term is defined in ~~[subdivision twelve of section thirty-three hundred sixty of the public health law]~~ section three of the cannabis law, who issues a certification with knowledge of reasonable grounds to know that (i) the recipient has no medical need for it, or (ii) it is for a purpose other than to treat a ~~[serious]~~ condition as defined in ~~[subdivision seven of section thirty-three hundred sixty of the public health law]~~ section three of the cannabis law.

Criminal diversion of medical ~~[marihuana]~~ cannabis in the first degree is a class E felony.

§ 179.11 Criminal diversion of medical ~~[marihuana]~~ cannabis in the second degree.

A person is guilty of criminal diversion of medical ~~[marihuana]~~ cannabis in the second degree when he or she sells, trades, delivers, or otherwise provides medical ~~[marihuana]~~ cannabis to another with knowledge or reasonable grounds to know that the recipient is not registered under ~~[title five A of article thirty-three of the public health law]~~ article three of the cannabis law.

Criminal diversion of medical ~~[marihuana]~~ cannabis in the second degree is a class B misdemeanor.

§ 179.15 Criminal retention of medical ~~[marihuana]~~ cannabis.

A person is guilty of criminal retention of medical ~~[marihuana]~~ cannabis when, being a certified patient or designated caregiver, as those terms are defined in ~~[subdivisions three and five of section thirty-three hundred sixty of the public health law, respectively]~~ section three of the cannabis law, he or she knowingly obtains, possesses, stores or maintains an amount of ~~[marihuana]~~ cannabis in excess of the amount he or she is authorized to possess under the provisions of ~~[title five A of article thirty-three of the public health law]~~ article three of the cannabis law.

Criminal retention of medical ~~[marihuana is a class A misdemeanor]~~ cannabis shall be punishable as provided in section 222.25 of this chapter.

§ 48. Section 220.78 of the penal law, as added by chapter 154 of the laws of 2011, is amended to read as follows:

§ 220.78 Witness or victim of drug or alcohol overdose.

1. A person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening

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 marihuana 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 marihuana 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.