STATE OF NEW YORK

3281

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. PAULIN, ZEBROWSKI, THIELE, SIMON, SEAWRIGHT, BUTTENSCHON, CONRAD, FAHY, GUNTHER, MAGNARELLI, McMAHON, STERN, STIRPE, WALLACE, WOERNER -- read once and referred to the Committee on Economic Development

AN ACT to amend the cannabis law, in relation to establishing additional penalties for the unlawful sale of cannabis

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

Section 1. Section 132 of the cannabis law is amended by adding a new subdivision 7 to read as follows:

7. (a) In addition to any other civil or criminal penalties that may apply, any firm, partnership, association, corporation, or retailer, as defined in section three of this chapter, doing business as a retail dispensary without a proper license or while under suspension or revocation, or in violation of an order directing cessation of unlicensed retail dispensing issued by the office of cannabis management pursuant to article four of this chapter or a local police department is subject to a civil penalty of not less than twenty-five hundred dollars for the first violation, five thousand dollars for a second such violation, and a claiming authority may direct a claiming agent to levy upon property by seizure for a third such violation and any subsequent violation. Before seizure, the claiming authority shall give the firm, partnership, association, corporation, or retailer ten days' notice in writing, to be served in a manner consistent with article three of the civil practice law and rules, of a hearing for the firm, partnership, association, corporation, or retailer to show cause why such property should not be seized. Following such hearing, the claiming authority shall render a decision in writing and file with the office, and a copy thereof shall be served personally or by mail to the firm, partnership, association, corporation, or retailer. The decision shall be subject to review under article seventy-eight of the civil practice law and rules instituted

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

LBD02092-01-3

within thirty days after receipt of the claiming authority's decision by the firm, partnership, association, corporation, or retailer. For the purposes of this subdivision, an entity is "doing business as a retail dispensary" when unlicensed adult use cannabis is sold or offered to be sold to multiple persons from the same premises on more than one day and after notice to cease and desist has been given by the office of cannabis management or a local police department.

(b) For purposes of this subdivision, a "claiming authority" may be either the office of cannabis management or the appropriate local county attorney or corporation counsel upon consent of the office of cannabis management. A "claiming agent" means all persons described in subdivision thirty-four of section 1.20 of the criminal procedure law, and sheriffs, undersheriffs, and deputy sheriffs of counties within the city of New York acting upon direction of a claiming authority. Property subject to seizure includes cannabis kept or maintained at the location of retail dispensing and any property which contributes directly and materially to unlawful retail sale of cannabis. Nothing in this subdivision shall prevent the immediate seizure of illicit cannabis as otherwise authorized by law.

§ 2. This act shall take effect immediately.