

STATE OF NEW YORK

2106

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the Committee on Economic Development

AN ACT to amend the cannabis law, in relation to requiring that the sale or delivery of cannabis products by distributors to retailers be in exchange for cash to be paid at the time of delivery or on terms requiring payment by such retailer for such cannabis products

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

1 Section 1. The cannabis law is amended by adding a new section 78-a to
2 read as follows:

3 § 78-a. Terms of sale. 1. As used in this section:

4 a. "Credit period" means a period beginning on the date cannabis
5 products are delivered and ending thirty days thereafter.

6 b. "Payment period" means the period beginning on the date cannabis
7 products are delivered and ending on the thirtieth day following the
8 date on which cannabis products are delivered.

9 c. "Final payment date" means the last day of a payment period.

10 d. "Notification date" means, notwithstanding section twenty-five of
11 the general construction law, for deliveries on:

12 (i) Monday, the Monday immediately following a final payment date;

13 (ii) Tuesday, the Tuesday immediately following the final payment
14 date;

15 (iii) Wednesday, the Wednesday immediately following the final payment
16 date;

17 (iv) Thursday, the Thursday immediately following the final payment
18 date;

19 (v) Friday, the Friday immediately following the final payment date.

20 e. "Retailer" means a person licensed to sell cannabis products at
21 retail for on-premise consumption or for off-premise consumption
22 (including a person holding a permit granted by the board pursuant to
23 this article).

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

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1 f. "Cannabis product" shall have the same meaning as the term is
2 defined in subdivision nine of section three of this chapter.

3 g. "Cash" means and includes currency and coin of the United States of
4 America, certified check, money order, electronic funds transfer, bank
5 officer's check or draft, or a check drawn on the account of the retail-
6 er payable to the distributor and dated no later than the date of deliv-
7 ery of the cannabis products and which is honored upon presentment for
8 payment, provided, however, that if any check or other instrument
9 described herein tendered by a retailer on the delinquent list is not
10 honored upon presentment for payment, the license of such retailer may
11 be suspended for not more than fifteen days for the first offense, and
12 not more than sixty days for a subsequent offense, which penalty shall
13 be in addition to the penalty provided for by the provisions of subdivi-
14 sion six of this section, and provided further, that nothing herein
15 contained shall require a distributor to accept a check tendered by or
16 drawn on the account of a retailer on the delinquent list unless the
17 same has been certified.

18 h. "Distributor" shall have the same meaning as the term is defined in
19 subdivision twenty-four of section three of this chapter.

20 2. No distributor licensed under this chapter shall sell or deliver
21 any cannabis product to any retailer except:

22 (a) for cash to be paid at the time of delivery; or

23 (b) on terms requiring payment by such retailer for such cannabis
24 products on or before the final payment date of the credit period for
25 which delivery is made.

26 3. Each such distributor is hereby required, on or before the respec-
27 tive notification dates for each retailer license, to give written
28 notice of default, by first class mail, to all such licensees therein
29 who have failed to make payment to him or her on or before their final
30 payment date for cannabis products sold or delivered to them during a
31 credit period ending on their final payment date. No retailer shall be
32 placed in default if the distributor has issued an account credit to the
33 retailer, which after application to all debts owed by the retailer, is
34 equal to or greater than the amount of the default. Any such retailer
35 receiving such notice shall not thereafter purchase cannabis products
36 except for cash until such time as the board determines that his or her
37 name shall not be published on the delinquent list as provided in subdi-
38 vision four of this section, or until such time as the board permits
39 sales or deliveries to him or her as provided in subdivision five of
40 this section. Each such distributor is hereby required to file with the
41 board, on or before each notification date, copies of the notices sent
42 by him or her to all delinquent retailer licensees as required in this
43 subdivision, and in addition, if the board shall so require, a written
44 list setting forth the names and addresses of all such delinquent
45 retailers. The board, in its discretion, may extend for a period not
46 exceeding three days the date for giving written notice of default to
47 delinquent retailers and extend for three days the date for filing with
48 the board the copies of notices sent to such retailers and/or the writ-
49 ten list of delinquent retailers as required in this subdivision. The
50 board, in its discretion, may limit the documents to be filed to those
51 relating to retailers who are to be added or deleted from the default
52 list and direct that the distributor shall maintain copies of all other
53 documents required under this section for future inspection by the
54 board. The board shall, as soon as practicable after each notification
55 date, compile and publish and furnish each distributor a list, to be
56 designated the delinquent list, containing the names and addresses of

1 all retailers who have been reported by distributors pursuant to the
2 provisions of this section as having failed to make payment as required
3 by this section for cannabis products sold or delivered to them, and no
4 such distributor, on or after the fifth day after the receipt of such
5 delinquent list, shall knowingly, willfully or intentionally sell or
6 deliver any cannabis products to any such retailer whose name appears on
7 such list, except for cash, until such time as the name of such retailer
8 is removed therefrom, except as hereinafter permitted. The receipt of a
9 delinquent list by a distributor shall constitute knowledge of the names
10 of the retailers who have failed to make payment for cannabis products
11 as required by this section. The failure of any distributor to comply
12 with the foregoing provisions of this section may, at the discretion of
13 the board, subject the license of such distributor to suspension for not
14 more than five days for the first offense, and not more than thirty days
15 for a subsequent offense. The board may publish the delinquent list on
16 its website; provided, however, that full access shall be restricted to
17 those distributors and access to their specific status shall be provided
18 to retailers. Such publication shall be considered receipt thereof by
19 all distributors.

20 4. In the event that any dispute shall exist between any distributor
21 and a retailer to whom he or she shall have sold cannabis products,
22 either as to the fact of payment or as to the amount due for such canna-
23 bis products or as to the quantity of the cannabis products sold or
24 delivered, which dispute cannot be adjusted between them, the board is
25 hereby authorized to receive statements from each of the parties to such
26 dispute as to the facts and circumstances thereof and to determine
27 whether or not such retailer's name should be published on the appropri-
28 ate delinquent list.

29 5. The board in the case of a retailer who has actually made payment
30 for cannabis products, or on good cause shown to it, may permit sales or
31 deliveries to any retailer who has received notice of default or who is
32 named on any delinquent list, on terms other than for cash, but within
33 the limitations of this section, prior to the publication of the next
34 appropriate delinquent list.

35 6. The license of any retailer who purchases or accepts delivery of
36 cannabis products on any terms, other than as provided in this section,
37 may be suspended for not more than five days for the first offense and
38 not more than thirty days for a subsequent offense. The failure of any
39 such retailer to pay any amount in default before the expiration of the
40 period of suspension shall be deemed and punishable as a subsequent
41 offense until paid. In addition, the board may require any such retail-
42 er, after default in making payment in accordance with the provisions of
43 this section to make payment in cash for cannabis products subsequently
44 delivered.

45 7. All retailers who fail to pay distributors for cannabis products
46 sold or delivered to such retailers by such distributors subsequent to
47 the effective date of this section, shall liquidate and pay such unpaid
48 balances to such distributors in equal monthly installments over a peri-
49 od of three months from the date upon which such unpaid balances become
50 due. The board, shall not, however, because of such an indebtedness or
51 failure to pay such balance refuse to renew the license of any such
52 licensee.

53 8. Nothing herein contained shall be construed to require any distrib-
54 utor to extend credit to any retailer nor to restrain any distributor
55 from seeking to enforce by legal action or otherwise, payment of any sum

1 or sums of money due or alleged to be due to any such distributor for
2 cannabis products sold or delivered to any such retailer.

3 9. The board is hereby authorized to do such acts, prescribe such
4 forms and make such rules, regulations and orders as it may deem neces-
5 sary or proper fully to effectuate the provisions of this section,
6 including but not limited to the changing of any date on which any act
7 or function pursuant to this section is to be performed by any licensee
8 or by the board.

9 10. For the purpose of raising the moneys necessary to defray the
10 expenses incurred in the administration of this section, on or before
11 the tenth day after this section becomes a law, there shall be paid to
12 the board by each distributor licensed under this chapter to sell canna-
13 bis products to retailers, a sum equivalent to ten per centum of the
14 biennial license fee prescribed by this chapter for each such licensee.
15 A like sum shall be paid by each person hereafter applying for any such
16 license or the renewal of any such license, and such sum shall accompany
17 the application and the license fee prescribed by this chapter for such
18 license or renewal, as the case may be.

19 § 2. This act shall take effect January 1, 2024. Effective immediate-
20 ly, the addition, amendment and/or repeal of any rule or regulation
21 necessary for the implementation of this act on its effective date are
22 authorized to be made and completed on or before such effective date.