

# 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:

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

3 7. (a) In addition to any other civil or criminal penalties that may  
4 apply, any firm, partnership, association, corporation, or retailer, as  
5 defined in section three of this chapter, doing business as a retail  
6 dispensary without a proper license or while under suspension or revoca-  
7 tion, or in violation of an order directing cessation of unlicensed  
8 retail dispensing issued by the office of cannabis management pursuant  
9 to article four of this chapter or a local police department is subject  
10 to a civil penalty of not less than twenty-five hundred dollars for the  
11 first violation, five thousand dollars for a second such violation, and  
12 a claiming authority may direct a claiming agent to levy upon property  
13 by seizure for a third such violation and any subsequent violation.  
14 Before seizure, the claiming authority shall give the firm, partnership,  
15 association, corporation, or retailer ten days' notice in writing, to be  
16 served in a manner consistent with article three of the civil practice  
17 law and rules, of a hearing for the firm, partnership, association,  
18 corporation, or retailer to show cause why such property should not be  
19 seized. Following such hearing, the claiming authority shall render a  
20 decision in writing and file with the office, and a copy thereof shall  
21 be served personally or by mail to the firm, partnership, association,  
22 corporation, or retailer. The decision shall be subject to review under  
23 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

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

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

20 § 2. This act shall take effect immediately.