# STATE OF NEW YORK

3479

2025-2026 Regular Sessions

# IN SENATE

January 27, 2025

Introduced by Sens. HELMING, BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the cannabis law, in relation to allowing municipalities to regulate public places where cannabis can be consumed

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

Section 1. Section 131 of the cannabis law, subdivision 3 as added by section 10 of the part G of chapter 55 of laws of 2024, is amended to read as follows:

§ 131. Local opt-out; municipal control and preemption. 1. **(a)** The licensure and establishment of a retail dispensary license and/or on-site consumption license under 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 the effective date of this chapter, and, on or before the later of December thirty-first, two thousand twenty-one or nine months after the effective date of this section, adopts a local law, subject to permissive referendum governed by section twenty-four of the municipal home rule law, requesting the cannabis control board to prohibit the establishment of such retail dispensary licenses and/or on-site consumption 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. No local law may be adopted after the later of December thirty-first, two thousand twenty-one or nine months after the effective date of this section prohibiting the establishment of retail dispensary licenses and/or on-site consumption licenses; provided, however, that a local law repealing such prohibition may be adopted after such date.

[~~2.~~] **(b)** Except as provided for in [~~subdivision one~~] **paragraph (a)** of this [~~section~~] **subdivision**, all county, town, city and village governing

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

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bodies are hereby preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or cannabinoid hemp licenses. However, towns, cities and villages may pass local laws and regulations governing the time, place and manner of the operation of licensed adult-use cannabis retail dispensaries and/or on-site consumption site, provided such law or regulation does not make the operation of such licensed retail dispensaries or on-site consumption sites unreasonably impracticable as determined by the board.

**2. Any county, town, city or village may adopt a local law, rule, ordinance, regulation or prohibition regarding public places where adult-use cannabis may be consumed within such county, town, city or village.**

3. (a) As used in this subdivision and for purposes of any local law adopted pursuant to it, the following terms shall have the following meanings: "person" shall have the meaning provided for in subdivision forty-a of section three of this chapter; "unlicensed activity" shall refer only to unlawfully selling cannabis, cannabis product, or any product marketed or labeled as such without obtaining the appropriate registration, license, or permit therefor, or engaging in an indirect retail sale; "indirect retail sale" shall have the meaning provided for in subdivision forty-six-a of section three of this chapter, except that it shall not include cannabinoid hemp or hemp extract product; "place of business" shall not include a residence or other real property not otherwise held out as open to the public or otherwise being utilized in a business or commercial manner, or any vehicle associated with the business, unless probable cause exists to believe that such residence, real property, or vehicle, is being used in such business or commercial manner for the unlicensed activity.

(b) Any county or city may adopt a local law authorizing an officer or agency to conduct regulatory inspections of any place of business located within the county or city, including a vehicle used for such business, not listed on the directory maintained by the office pursuant to subdivision thirteen of section eleven of this chapter. Any such regulatory inspection shall only occur during the operating hours of a place of business and be conducted for purposes of civil administrative enforcement with respect to premises lacking applicable registrations, licenses or permits issued pursuant to this chapter, and in furtherance of its purposes, provided that nothing herein shall limit any enforcement action under law when illegal activity is observed or occurs during such inspection.

(c) A local law adopted by a county authorizing regulatory inspections shall not apply in any city included within the boundaries of such county that adopts a local law authorizing regulatory inspections within such city.

(d) The local law adopted by a county or a city pursuant to this subdivision shall also:

(i) require procedures sufficient to ensure that any regulatory inspections are conducted in a reasonable manner, are administrative in nature, designed to detect administrative violations, in furtherance of the regulatory scheme established pursuant to this section, and designed to guarantee certainty and regularity of application;

(ii) designate a local official who shall serve as the liaison to the office and who shall: (1) be required to ensure that updates to the directory are immediately incorporated into the local inspection process, coordinate with the office on efforts to inspect such unlicensed

businesses and related local enforcement efforts; (2) send bi-weekly reports to the office in a manner and format prescribed by the office detailing recent enforcement efforts, including information regarding the number and location of inspections conducted, notices of violation issued, and orders to seal issued and executed, and the amount and nature of the cannabis, cannabis products, or products marketed as such seized; and (3) serve as the primary contact for the office in connection with the office's training program and the sharing of materials made available to counties and cities with regard to the inspection and enforcement of unlicensed cannabis businesses;

(iii) be filed with the office, as well as any procedures or regulations promulgated pursuant to the local law. Notwithstanding the effective date of any such local law, the local law shall not become effective until ten days after it is filed with the office;

(iv) establish a system for receiving complaints of such unlicensed activity by any business within the county or city, as the case may be;

(v) provide that any person who engages in the unlawful sale of cannabis, cannabis product, or any product marketed or labeled as such, or in indirect retail sales, shall be subject to a civil penalty of not less than one hundred dollars and not more than ten thousand dollars for each day during which such violation continues, with a maximum penalty of no more than twenty-five thousand dollars. The penalty provided for in this subparagraph may be recovered by an action or proceeding in a court of competent jurisdiction brought by the county or city to enforce the notice of violation referred to in clause one of subparagraph (vi) of this paragraph; and

(vi) provide that the officer or agency designated to conduct regulatory inspections of any place of business not listed on the directory maintained by the office shall have the authority to:

(1) issue a notice of violation and order to cease unlicensed activity setting forth the nature of the unlawful conduct along with any fines or penalties for such conduct in amounts not to exceed the fines set forth in subparagraph (v) of this paragraph and order any person who is unlawfully selling cannabis, cannabis product, or any product marketed or labeled as such without obtaining the appropriate registration, license, or permit therefor, or engaging in indirect retail sale, to cease such prohibited conduct, provided that any such notice of violation and order to cease unlicensed activity may only be issued against the business that is conducting the unlicensed activity or an individual owner of the business. Any notice of violation and order to cease unlicensed activity shall be served by delivery of the order to the owner of the business or other person of suitable age or discretion in actual or apparent control of the premises at the time of the inspection and shall be posted at the building or premises that have been sealed, secured and closed. A copy of the order shall also be mailed to any address for the owner of the business at any address provided by the person to whom such order was delivered pursuant to this paragraph;

(2) seize any cannabis, cannabis product, or any product marketed or labeled as such, found in the possession of a person engaged in the conduct described in clause one of this subparagraph and in their place of business, including a vehicle used for such business, providing that the business that is conducting the unlicensed activity or an individual owner of the business, maintain documentation of the chain of custody of such seized products, and ensure that such products are properly stored, catalogued, and safeguarded until such time as they may properly be destroyed by the county or the city;

(3) issue an order to seal the building or premises of any business engaged in unlicensed activity, when such activity is conducted, maintained, or permitted in such building or premises, occupied as a place of business subject to the procedures and requirements set forth in this subparagraph:

A. The officer or agency may issue an order to seal with an immediate effective date if such order is based upon a finding by the officer or agency of an imminent threat to the public health, safety, and welfare.

B. Any order to seal shall be served by delivery of the order to the owner of the business or other person of suitable age or discretion in actual or apparent control of the premises at the time of the inspection and shall be posted at the building or premises that have been sealed, secured and closed. A copy of the order shall also be mailed to any address for the owner of the business provided by the person to whom such order was delivered pursuant to this paragraph. The order shall remain in effect pending a hearing and final determination of a court, or until such order is vacated by the officer or agency pursuant to the local law adopted pursuant to this subdivision. An order to seal shall explicitly state that a request for a hearing may be submitted in writing to the corporation counsel or to the county attorney as applicable within seven days. Upon receiving such a request for a hearing, the corporation counsel or county attorney shall file a copy of the request with the clerk of the city court or county court in the city or county where the building or premises is located.

C. The court that receives notice of a request for a hearing from a corporation counsel or a county attorney shall fix the date of such hearing no later than three business days from the date such notice is received by the court and provide notice to the parties of the date, time, and location of the hearing. Upon such date, or upon such other date to which the proceeding may be adjourned by agreement of the parties, the court shall hear testimony and receive evidence presented by the parties. The city or county, as applicable, and the person that requested the hearing shall be parties to the proceeding. Within four business days of the conclusion of the hearing, the court shall make a determination as to: (i) whether the person upon which the order to seal was issued was engaged in unlicensed activity, (ii) if the person is found to have engaged in unlicensed activity, then whether such unlicensed activity presents an imminent threat to public health, safety and welfare according to subdivision four of section one hundred thirty-eight-b of this article, and (iii) whether the unlicensed activity as described in this section is more than a de minimis part of the business activity on the premises or in the building to be sealed pursuant to the order. However, when an order to seal has been issued upon a second or subsequent inspection in which unlicensed activity is confirmed to be continuing more than ten calendar days after a notice of violation and order to cease unlicensed activity was previously issued, the court need only determine: (i) whether the person upon which the order to seal was issued was engaged in unlicensed activity; (ii) whether a notice of violation and order to cease unlicensed activity had been issued eleven or more days prior to the issuance of the order to seal; and (iii) whether the order to seal was issued in compliance with paragraph (a) of subdivision six of section one hundred thirty-eight-b of this article. If the court determines that an order to seal was not properly issued, the court shall vacate such order. If the court is satisfied that an order to seal was properly issued, the court may render a judgment affirming the issuance of an order to seal, and direct the closing of

the building or premises by any police officer or peace officer with jurisdiction to the extent necessary to abate the unlicensed activity and shall direct any police officer or peace officer with jurisdiction to post a copy of the judgment and a printed notice of such closing conforming to the requirements of this chapter. The closing directed by the judgment shall be for such period as the court may direct but in no event shall the closing be for a period of more than one year from the posting of the judgment provided for in this section. Failure of a party that requested a hearing to appear at the hearing will result in a default and order of sealing to remain in effect for such period as the court may direct but in no event shall the order be in effect for a period of more than one year from the posting of the judgment unless otherwise vacated pursuant to the local law adopted pursuant to this subdivision.

D. The local law adopted pursuant to this subdivision shall include, without alteration the provisions of subdivisions four through twelve of section one hundred thirty-eight-b of this article. Any provisions adopted by a local law to the contrary shall be considered specifically preempted by this paragraph, provided however that a county or city shall be permitted to substitute the officer or agency authorized by the county or city to conduct regulatory inspections pursuant to this subsection for any reference to the office or board;

(4) seek injunctive relief against any person engaging in conduct in violation of this section, including through an action pursuant to section sixteen-a of this chapter.

(e) Upon a demand by the county or city, a respondent or defendant shall provide to the county or city prior to a hearing pursuant to subparagraph (v) of paragraph (d) of this subdivision or an order to seal pursuant to clause three of subparagraph (vi) of paragraph (d) of this subdivision, within five days after a demand or sooner if a hearing is scheduled less than five days from the date of demand, a verified statement setting forth:

(i) If the responding party is a natural person, such party's: (1) full legal name; (2) date of birth; (3) current home or business street address; and (4) a unique identifying number from: (A) an unexpired passport; (B) an unexpired state driver's license; or (C) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual;

(ii) If the responding party is a partnership, limited liability partnership, limited liability company, or other unincorporated association, including a for profit or not-for-profit membership organization or club, the information required pursuant to subparagraph (i) of this paragraph for all of its partners or members, as well as the state or other jurisdiction of its formation;

(iii) If the responding party is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen;

(iv) If the responding party is not an individual, in addition to any information provided pursuant to subparagraphs (ii) and (iii) of this paragraph, and to the extent not previously provided, each beneficial owner of the responding party by: (A) full legal name; (B) date of birth; (C) current home or business street address; and (D) a unique identifying number from: (1) an unexpired passport; (2) an unexpired state driver's license; or (3) an unexpired identification card or document issued by a state or local government agency or tribal authority

for the purpose of identification of that individual. As used in this section, the term "beneficial owner" shall have the same meaning as defined in 31 U.S.C. § 5336(a)(3), as amended, and any regulations promulgated thereunder.

(f) Notwithstanding any provision to the contrary in this section, a city with a population of more than one million may enforce any violations, orders to cease, and orders to seal related to unlicensed activity through an administrative hearing process.

§ 2. This act shall take effect immediately.