

# **Cannabis – Do's and Don'ts for NY Real Estate Lawyers**

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# CANNABIS IN NYS

## BILLS TO WATCH

Within the past week, legislators from both the New York State Senate and Assembly have set forth amendments to the Cannabis Regulation and Taxation Act (“CRTA”) introduced by Governor Cuomo in January 2019. Both bills attempt to facilitate the legalization of recreational cannabis in New York, but have different ramifications on the criminal justice system and medical marijuana program. Below are the highlights of each bill.

### **BILL A1617-A**

- Introduced by Assemblyman Richard Gottfried (D-75) and Senator Diane Savino (D-23)
- Allows health care providers to determine which patients should have access to medical marijuana, eliminating the requirement that patients have one of 13 enumerated conditions
- Increases the number of medical dispensaries statewide from 35 to 80
- Eliminates \$50 patient-registration fees
- Allows patients to obtain a 60-day (rather than 30-day) supply of medical marijuana
- Eliminates the ban on the sale of smokeable medical marijuana
- Enables health care facilities for the developmentally disabled to become “designated caregiver facilities” allowed to obtain and administer medical marijuana independently
- Establishes a medical marijuana research program
- Expands third-party testing of cannabis products beyond the state’s Wadsworth Laboratory
- Allows registered organizations to contract out ancillary functions (i.e., security, transportation)

### **BILL S1527-B**

- Introduced by Assembly Majority Leader Crystal D. Peoples-Stokes (D-141) and Senator Liz Kreuger (D-28)
- Decreases the amount of marijuana a person can legally possess from 2 lbs. to 3 oz.
- Increases taxes on marijuana flowers from \$.62 to \$1 per flower
- Increases taxes on marijuana leaves from \$.10 per gram to \$.25 per gram
- When prioritizing the issuance of licenses for distribution, gives preference to applicants whose parent, guardian, child, spouse, dependent or dependee has been convicted of a marijuana related offense
- Invests \$1 million for three years to train police officers to identify people driving under the influence of drugs
- Establishes an Office of Cannabis Management to oversee the growth, sale and distribution of hemp, medical and recreational marijuana
- Expunges, rather than seals, records of people with previous lower-level marijuana possession convictions

Both bills are currently pending in Committee, and could be amended before the legislative session ends. The 2019-2020 legislative session ends Wednesday, June 19.

*The cannabis industry team at Harris Beach integrates decades of knowledge and thought leadership from multiple areas of law. With our regional focus, statewide coverage and local connections, we offer a comprehensive portfolio of legal services to cannabis clients in New York state.*

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# STATE OF NEW YORK

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1617--B

2019-2020 Regular Sessions

## IN ASSEMBLY

January 16, 2019

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Introduced by M. of A. PEOPLES-STOKES, GOTTFRIED, LUPARDO, WRIGHT, WEPRIN, HUNTER, HYNDMAN, PICHARDO, BLAKE, L. ROSENTHAL, JAFFEE, DINOWITZ, JEAN-PIERRE, ABINANTI, RICHARDSON, HEVESI, WALKER, VANEL, NIOU, BICHOTTE, CAHILL, LIFTON, EPSTEIN, QUART, ORTIZ, REYES, DICKENS, FRONTUS, CRUZ, SOLAGES, RAYNOR, RODRIGUEZ, FERNANDEZ, ARROYO, BRONSON, DE LA ROSA, FALL, CARROLL, LENTOL, DenDEKKER, RAMOS, BENEDETTO, SIMOTAS -- Multi-Sponsored by -- M. of A. MOSLEY, SEAWRIGHT, SIMON, STECK, TAYLOR -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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

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

LBD07592-10-9

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 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:

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

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

5 CHAPTER 7-A OF THE CONSOLIDATED LAWS

6 CANNABIS LAW

7 ARTICLE 1

8 SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT;

9 DEFINITIONS

10 Section 1. Short title.

11 2. Legislative findings and intent

12 3. Definitions.

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

15 § 2. Legislative findings and intent. The legislature finds that  
16 existing marihuana laws have not been beneficial to the welfare of the  
17 general public. Existing laws have been ineffective in reducing or curb-  
18 ing marihuana use and have instead resulted in devastating collateral  
19 consequences that inhibit an otherwise law-abiding citizen's ability to  
20 access housing, employment opportunities, and other vital services.  
21 Existing laws have also created an illicit market which represents a  
22 threat to public health and reduces the ability of the legislature to  
23 deter the accessing of marihuana by minors. Existing marihuana laws have  
24 also disproportionately impacted African-American and Latino communi-  
25 ties.

26 The intent of this act is to regulate, control, and tax marihuana,  
27 heretofore known as cannabis, generate millions of dollars in new reven-  
28 ue, prevent access to cannabis by those under the age of twenty-one  
29 years, reduce the illegal drug market and reduce violent crime, reduce  
30 participation of otherwise law-abiding citizens in the illicit market,  
31 end the racially disparate impact of existing cannabis laws and create  
32 new industries and increase employment.

33 Nothing in this act is intended to limit the authority of any district  
34 government agency or office or employers to enact and enforce policies  
35 pertaining to cannabis in the workplace, to allow driving under the  
36 influence of cannabis, to allow individuals to engage in conduct that  
37 endangers others, to allow smoking cannabis in any location where smok-  
38 ing tobacco is prohibited, or to require any individual to engage in any  
39 conduct that violates federal law or to exempt anyone from any require-

1 ment of federal law or pose any obstacle to the federal enforcement of  
2 federal law.

3 It is the intent of this act that no child shall be the subject of a  
4 child neglect or abuse investigation or proceeding based solely on a  
5 parent's alleged cannabis use, or activity made lawful by this act. A  
6 newborn child's positive toxicology result for cannabis, is not suffi-  
7 cient on its own to support a finding of child neglect or abuse. Enact-  
8 ment of this act shall provide sufficient basis for New York state to  
9 favorably resolve open investigations and to amend and seal individuals'  
10 family court records and records of indicated child abuse or neglect  
11 reports currently in the statewide central register of child abuse and  
12 maltreatment based solely on the use of cannabis or where the reporter  
13 of suspected abuse or neglect was a law enforcement agency or staff  
14 person and the report was based solely upon the presence of a child  
15 during a cannabis-related arrest.

16 The legislature further finds and declares that it is in the best  
17 interest of the state to regulate medical cannabis, adult-use cannabis,  
18 and hemp extracts under one independent agency, known as the office of  
19 cannabis management.

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

24 1. "Applicant" means a resident of New York state aged twenty-one  
25 years or older applying for any cannabis or hemp license or special use  
26 permit issued by the office of cannabis management.

27 2. "Cannabinoid extractor" means a person licensed by the office to  
28 acquire, possess, extract and manufacture hemp extract from licensed  
29 cannabinoid growers for the manufacture and sale of hemp extract  
30 products marketed for cannabinoid content and used or intended for human  
31 or animal consumption or use.

32 3. "Cannabinoid grower" means a person licensed by the office, and in  
33 compliance with article twenty-nine of the agriculture and markets law,  
34 to acquire, possess, cultivate, and sell hemp extract for its cannabi-  
35 noid content.

36 4. "Cannabis" means all parts of the plant of the genus Cannabis,  
37 whether growing or not; the seeds thereof; the resin extracted from any  
38 part of the plant; and every compound, manufacture, salt, derivative,  
39 mixture, or preparation of the plant, its seeds or resin. It does not  
40 include the mature stalks of the plant, fiber produced from the stalks,  
41 oil or cake made from the seeds of the plant, any other compound, manu-  
42 facture, salt, derivative, mixture, or preparation of the mature stalks  
43 (except the resin extracted therefrom), fiber, oil, or cake, or the  
44 sterilized seed of the plant which is incapable of germination. It does  
45 not include hemp extract as defined by this section.

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

48 6. "Cannabis flower" means the flower of a plant of the genus Cannabis  
49 that has been harvested, dried, and cured, and prior to any processing  
50 whereby the plant material is transformed into a concentrate, including,  
51 but not limited to, concentrated cannabis, or an edible or topical prod-  
52 uct containing cannabis or concentrated cannabis and other ingredients.  
53 Cannabis flower excludes leaves and stem.

54 7. "Cannabis product" or "adult-use cannabis" means cannabis, concen-  
55 trated cannabis, and cannabis-infused products for use by a cannabis  
56 consumer.

- 1 8. "Cannabis-infused products" means products that have been manufac-  
2 tured and contain either cannabis or concentrated cannabis and other  
3 ingredients that are intended for use or consumption.
- 4 9. "Cannabis trim" means all parts of the plant of the genus Cannabis  
5 other than cannabis flower that have been harvested, dried, and cured,  
6 but prior to any further processing.
- 7 10. "Caring for" means treating a patient, in the course of which the  
8 practitioner has completed a full assessment of the patient's medical  
9 history and current medical condition.
- 10 11. "Certification" means a certification made under this chapter.
- 11 12. "Certified medical use" includes the acquisition, administration,  
12 cultivation, manufacture, delivery, harvest, possession, preparation,  
13 transfer, transportation, or use of cannabis or paraphernalia relating  
14 to the administration of cannabis to treat or alleviate a certified  
15 patient's medical condition or symptoms associated with the patient's  
16 medical condition.
- 17 13. "Certified patient" means a patient who is a resident of New York  
18 state or receiving care and treatment in New York state as determined by  
19 the executive director in regulation, and is certified under this chap-  
20 ter.
- 21 14. "Commercial cannabis activity" means the production, cultivation,  
22 manufacturing, processing, possession, storing, laboratory testing,  
23 packaging, labeling, transportation, delivery, or sale of cannabis and  
24 cannabis products as provided for in this chapter.
- 25 15. "Concentrated cannabis" means: (a) the separated resin, whether  
26 crude or purified, obtained from a plant of the genus Cannabis; or (b) a  
27 material, preparation, mixture, compound or other substance which  
28 contains more than three percent by weight of delta-9 tetrahydrocannabi-  
29 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1  
30 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering  
31 system.
- 32 16. "Condition" means having one of the following conditions: cancer,  
33 positive status for human immunodeficiency virus or acquired immune  
34 deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease,  
35 multiple sclerosis, damage to the nervous tissue of the spinal cord with  
36 objective neurological indication of intractable spasticity, epilepsy,  
37 inflammatory bowel disease, neuropathies, Huntington's disease, post-  
38 traumatic stress disorder, pain that degrades health and functional  
39 capability where the use of medical cannabis is an alternative to opioid  
40 use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia,  
41 rheumatoid arthritis, autism or any other condition certified by the  
42 practitioner.
- 43 17. "Cultivation" means growing, cloning, harvesting, drying, curing,  
44 grading, and trimming of cannabis plants for sale to certain other cate-  
45 gories of cannabis license- and permit-holders.
- 46 18. "Delivery" means the direct delivery of cannabis products by a  
47 retail licensee, microbusiness licensee, or delivery license holder to a  
48 cannabis consumer.
- 49 19. "Designated caregiver facility" means a general hospital or resi-  
50 dential health care facility operating pursuant to article twenty-eight  
51 of the public health law; an adult care facility operating pursuant to  
52 title two of article seven of the social services law; a community  
53 mental health residence established pursuant to section 41.44 of the  
54 mental hygiene law; a hospital operating pursuant to section 7.17 of the  
55 mental hygiene law; a mental hygiene facility operating pursuant to  
56 article thirty-one of the mental hygiene law; an inpatient or residen-



1 tial treatment program certified pursuant to article thirty-two of the  
2 mental hygiene law; a residential facility for the care and treatment of  
3 persons with developmental disabilities operating pursuant to article  
4 sixteen of the mental hygiene law; a residential treatment facility for  
5 children and youth operating pursuant to article thirty-one of the  
6 mental hygiene law; a private or public school; research institution  
7 with an internal review board; or any other facility as determined by  
8 the executive director in regulation; that registers with the office to  
9 assist one or more certified patients with the acquisition, possession,  
10 delivery, transportation or administration of medical cannabis.

11 20. "Designated caregiver" means an individual designated by a certi-  
12 fied patient in a registry application. A certified patient may desig-  
13 nate up to five designated caregivers not counting designated caregiver  
14 facilities or designated caregiver facilities' employees.

15 21. "Designated caregiver facility employee" means an employee of a  
16 designated caregiver facility.

17 22. "Distributor" means any person who sells at wholesale any cannabis  
18 product, except medical cannabis, for the sale of which a license is  
19 required under the provisions of this chapter.

20 23. "Executive director" means the executive director of the office of  
21 cannabis management.

22 24. "Form of medical cannabis" means characteristics of the medical  
23 cannabis recommended or limited for a particular certified patient,  
24 including the method of consumption and any particular strain, variety,  
25 and quantity or percentage of cannabis or particular active ingredient.

26 25. "Hemp extract" means any product made or derived from industrial  
27 hemp, including the seeds thereof and all derivatives, extracts, canna-  
28 binoids, isomers, acids, salts, and salts of isomers, whether growing or  
29 not, with a delta-9 tetrahydrocannabinol concentration of not more than  
30 an amount determined by the office in regulation, used or intended for  
31 human or animal consumption or use for its cannabinoid content, as  
32 determined by the executive director in regulation. Hemp extract  
33 excludes industrial hemp used or intended exclusively for an industrial  
34 purpose.

35 26. "Industrial hemp" means the plant *Cannabis sativa* L. and any part  
36 of such plant, including the seeds thereof and all derivatives,  
37 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
38 whether growing or not, with a delta-9 tetrahydrocannabinol concen-  
39 tration of not more than three-tenths of one percent on a dry weight  
40 basis, used or intended for an industrial purpose.

41 27. "Labor peace agreement" means an agreement between an entity and a  
42 labor organization that, at a minimum, protects the state's proprietary  
43 interests by prohibiting labor organizations and members from engaging  
44 in picketing, work stoppages, boycotts, and any other economic interfer-  
45 ence with the entity.

46 28. "Laboratory testing facility" means any independent laboratory  
47 capable of testing cannabis and cannabis products for adult-use and  
48 medical-use; hemp extract; or for all categories of cannabis and canna-  
49 bis products as per regulations set forth by the office.

50 29. "License" means a written authorization issued by the office of  
51 cannabis management permitting persons to engage in a specified activity  
52 with respect to cannabis or cannabis products.

53 30. "Medical cannabis" means cannabis as defined in this section,  
54 intended for a certified medical use, as determined by the executive  
55 director in consultation with the commissioner of health.

1 31. "Microbusiness" means a licensee that may act as a cannabis  
2 producer for the cultivation of cannabis, a cannabis processor, and a  
3 cannabis retailer under this article; provided such licensee complies  
4 with all requirements imposed by this article on licensed producers,  
5 processors, and retailers to the extent the licensee engages in such  
6 activities. A "microbusiness" may distribute its cannabis and cannabis  
7 products to other licensed cannabis businesses and may deliver cannabis  
8 and cannabis products to customers.

9 32. "Nursery" means a licensee that produces only clones, immature  
10 plants, seeds, and other agricultural products used specifically for the  
11 planting, propagation, and cultivation of cannabis.

12 33. "Office" or "office of cannabis management" means the New York  
13 state office of cannabis management.

14 34. "On-site consumption" means the consumption of cannabis in an area  
15 licensed for such activity by the office.

16 35. "Owner" means an individual with an aggregate ownership interest  
17 of twenty percent or more in a cannabis business licensed pursuant to  
18 this chapter, unless such interest is solely a security, lien, or encum-  
19 brance, or an individual that will be participating in the direction,  
20 control, or management of the licensed cannabis business.

21 36. "Package" means any container or receptacle used for holding  
22 cannabis or cannabis products.

23 37. "Permit" means a permit issued pursuant to this chapter.

24 38. "Permittee" means any person to whom a permit has been issued  
25 pursuant to this chapter.

26 39. "Practitioner" means a practitioner who: (i) is authorized to  
27 prescribe controlled substances within the state, (ii) by training or  
28 experience is qualified to treat patients; and (iii) completes, at a  
29 minimum, a two-hour course as determined by the executive director in  
30 regulation. A person's status as a practitioner under this chapter is  
31 deemed to be a "license" for purposes of section thirty-three hundred  
32 ninety of the public health law and shall be subject to the same revoca-  
33 tion process.

34 40. "Processor" means a licensee that extracts concentrated cannabis  
35 and/or compounds, blends, extracts, infuses, or otherwise manufactures  
36 concentrated cannabis or cannabis products, but not the cultivation of  
37 the cannabis contained in the cannabis product.

38 41. "Registered organization" means an organization registered under  
39 article three of this chapter.

40 42. "Registry application" means an application properly completed and  
41 filed with the office of cannabis management by a certified patient  
42 under article three of this chapter.

43 43. "Registry identification card" means a document that identifies a  
44 certified patient or designated caregiver, as provided under this chap-  
45 ter.

46 44. "Retail sale" means to solicit or receive an order for, to keep or  
47 expose for sale, and to keep with intent to sell, made by any person,  
48 whether principal, proprietor, agent, or employee, of any cannabis,  
49 cannabis product, or hemp extract product to a cannabis consumer for any  
50 purpose other than resale.

51 45. "Retailer" means any person who sells at retail any cannabis prod-  
52 uct, the sale of which a license is required under the provisions of  
53 this chapter.

54 46. "Smoking" means the burning of a lighted cigar, cigarette, pipe or  
55 any other matter or substance which contains tobacco or cannabis  
56 provided that it does not include the use of an electronic smoking

1 device that creates an aerosol or vapor, unless local laws or ordinances  
2 or state statutes extend prohibitions on smoking to electronic smoking  
3 devices.

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

7 48. "Warehouse" means and includes a place in which cannabis products  
8 are housed or stored.

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

13 ARTICLE 2

14 NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

15 Section 9. Establishment of an office of cannabis management.

16 10. Executive director.

17 11. Functions, powers and duties of the office and executive  
18 director.

19 12. Rulemaking authority.

20 13. State cannabis advisory board.

21 14. Disposition of moneys received for license fees.

22 15. Legal presumptions.

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

25 17. Formal hearings; notice and procedure.

26 18. Ethics, transparency and accountability.

27 § 9. Establishment of an office of cannabis management. There is here-  
28 by established, within the division of alcoholic beverage control, an  
29 independent office of cannabis management, which shall have exclusive  
30 jurisdiction to exercise the powers and duties provided by this chapter.  
31 The office shall exercise its authority by and through an executive  
32 director.

33 § 10. Executive director. The executive director shall be appointed  
34 by the governor and confirmed by the senate. The executive director of  
35 the state office of cannabis management shall receive an annual salary  
36 not to exceed an amount appropriated therefor by the legislature and his  
37 or her expenses actually and necessarily incurred in the performance of  
38 official duties, unless otherwise provided by the legislature.

39 § 11. Functions, powers and duties of the office and executive direc-  
40 tor. The office of cannabis management, by and through its executive  
41 director, shall have the following powers and duties:

42 1. To issue or refuse to issue any registration, license or permit  
43 provided for in this chapter, and to issue temporary or provisional  
44 licenses.

45 2. To issue or refuse to issue registrations, licenses, permits, and  
46 temporary or provisional licenses in a manner that prioritizes social  
47 equity applicants, and small business opportunities and concerns, avoids  
48 market dominance in sectors of the industry, and reflects the demograph-  
49 ics of the state.

50 3. To limit, or not to limit, in the executive director's discretion,  
51 the number of registrations, licenses and permits of each class to be  
52 issued within the state or any political subdivision thereof, and in  
53 connection therewith to prohibit the acceptance of applications for such

1 classes which have been so limited. Such limitations shall consider  
2 consumer access, market demand, and geographic diversity.

3 4. To develop testing standards and certify testing laboratories in  
4 the state.

5 5. To regulate advertising, marketing, branding, packaging, and label-  
6 ing, including regulating the accuracy of information about cannabis and  
7 cannabis products and restricting marketing and advertising to youth.

8 6. To revoke, cancel or suspend for cause any registration, license,  
9 or permit issued under this chapter and/or to impose a civil penalty for  
10 cause against any holder of a registration, license, or permit issued  
11 pursuant to this chapter.

12 7. To fix by rule the standards of cultivation and processing of  
13 medical cannabis, adult use cannabis and hemp extract, including but not  
14 limited to, the ability to regulate potency and the types of products  
15 which may be manufactured and/or processed, in order to ensure the  
16 health and safety of the public and the use of proper ingredients and  
17 methods in the manufacture of all medical cannabis, adult use cannabis,  
18 and hemp extract to be sold or consumed in the state.

19 8. To hold hearings, subpoena witnesses, compel their attendance,  
20 administer oaths, to examine any person under oath and in connection  
21 therewith to require the production of any books or records relative to  
22 the inquiry. A subpoena issued under this section shall be regulated by  
23 the civil practice law and rules.

24 9. To appoint any necessary directors, deputies, counsels, assistants,  
25 investigators, and other employees within the limits provided by appro-  
26 priation. Investigators so employed by the office shall be deemed to be  
27 peace officers for the purpose of enforcing the provisions of the canna-  
28 bis control law or judgements or orders obtained for violation thereof,  
29 with all the powers set forth in section 2.20 of the criminal procedure  
30 law. Directors, deputies, and counsels shall be in the exempt class of  
31 the civil service. The other assistants, investigators and employees of  
32 the office shall all be in the competitive class of the civil service.  
33 Employees transferred to the office shall be transferred without further  
34 examination or qualification to the same or similar titles and shall  
35 remain in the same collective bargaining units and shall retain their  
36 respective civil service classifications, status and rights pursuant to  
37 their collective bargaining units and collective bargaining agreements.  
38 Employees serving in positions in newly created titles shall be assigned  
39 to the appropriate collective bargaining unit.

40 10. To remove any employee of the office for cause, after giving such  
41 employee a copy of the charges against him or her in writing, and an  
42 opportunity to be heard thereon. Any action taken under this subdivision  
43 shall be subject to and in accordance with the civil service law.

44 11. To inspect or provide for the inspection at any time of any prem-  
45 ises where medical cannabis, adult use cannabis, or hemp extract is  
46 cultivated, processed, stored, distributed or sold.

47 12. To prescribe forms of applications for registrations, licenses and  
48 permits under this chapter and of all reports deemed necessary by the  
49 office.

50 13. To delegate the powers provided in this section to such other  
51 officers or employees or other state agencies as may be deemed appropri-  
52 ate by the executive director.

53 14. To appoint such advisory groups and committees as the executive  
54 director deems necessary to provide assistance to the office to carry  
55 out the purposes and objectives of this chapter.

1 15. To exercise the powers and perform the duties in relation to the  
2 administration of the office as are necessary but not specifically vest-  
3 ed by this chapter, including but not limited to budgetary and fiscal  
4 matters in consultation with the cannabis advisory board.

5 16. To develop and establish minimum criteria for certifying employees  
6 to work in the cannabis industry, including the establishment of a  
7 cannabis workers certification program.

8 17. To enter into contracts, memoranda of understanding, and agree-  
9 ments as deemed appropriate by the executive director to effectuate the  
10 policy and purpose of this chapter.

11 18. To issue and administer low interest or zero-interest loans and  
12 other assistance to qualified social equity applicants.

13 19. If the executive director finds that public health, safety, or  
14 welfare imperatively requires emergency action, and incorporates a find-  
15 ing to that effect in an order, summary suspension of a license may be  
16 ordered, effective on the date specified in such order or upon service  
17 of a certified copy of such order on the licensee, whichever shall be  
18 later, pending proceedings for revocation or other action. These  
19 proceedings shall be promptly instituted and determined. In addition,  
20 the executive director may order the administrative seizure of product,  
21 issue a stop order, or take any other action necessary to effectuate and  
22 enforce the policy and purpose of this chapter.

23 20. To issue regulations, declaratory rulings, guidance and industry  
24 advisories.

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

29 2. The office shall have the power to promulgate any and all necessary  
30 rules and regulations governing the cultivation, manufacture, process-  
31 ing, transportation, distribution, testing, delivery, and sale of  
32 medical cannabis, adult-use cannabis, and hemp extract, including but  
33 not limited to the registration of organizations authorized to sell  
34 medical cannabis, the licensing and/or permitting of adult-use cannabis  
35 cultivators, processors, cooperatives, distributors, laboratories, and  
36 retailers, and the licensing of hemp extract producers and processors  
37 pursuant to this chapter, including, but not limited to:

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

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

42 (c) the books and records to be created and maintained by registered  
43 organizations, licensees, and permittees, including the reports to be  
44 made thereon to the office, and inspection of any and all books and  
45 records maintained by any registered organization, licensee, or permittee  
46 and on the premise of any registered organization, licensee, or permit-  
47 tee;

48 (d) methods of producing, processing, and packaging cannabis, medical  
49 cannabis, cannabis-infused products, concentrated cannabis, and hemp  
50 extract; conditions of sanitation, and standards of ingredients, quali-  
51 ty, and identity of cannabis products cultivated, processed, packaged,  
52 or sold by registered organizations and licensees;

53 (e) security requirements for adult-use cannabis retail dispensaries  
54 and premises where cannabis products, medical cannabis, and hemp  
55 extract, are cultivated, produced, processed, or stored, and safety

1 protocols for registered organizations, licensees and their employees;  
2 and

3 (f) hearing procedures and additional causes for cancellation, revoca-  
4 tion, and/or civil penalties against any person registered, licensed, or  
5 permitted by the authority.

6 3. The office shall promulgate rules and regulations that are designed  
7 to:

8 (a) prevent the distribution of adult-use cannabis to persons under  
9 twenty-one years of age;

10 (b) prevent the revenue from the sale of cannabis from going to crimi-  
11 nal enterprises, gangs, and cartels;

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

13 (d) prevent cannabis activity that is legal under state law from being  
14 used as a cover or pretext for the trafficking of other illegal drugs or  
15 other illegal activity;

16 (e) prevent drugged driving and the exacerbation of other adverse  
17 public health consequences associated with the use of cannabis;

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

19 (g) prevent the possession and use of cannabis on federal property.

20 4. The office, in consultation with the department of agriculture and  
21 markets and the department of environmental conservation, shall promul-  
22 gate necessary rules and regulations governing the safe production of  
23 cannabis, including environmental and energy standards and restrictions  
24 on the use of pesticides.

25 § 13. State cannabis advisory board. 1. The executive director shall  
26 establish within the office a state cannabis advisory board prior to  
27 engaging in rulemaking, which may consider all matters submitted to it  
28 by the executive director, and advise the office and the legislature on  
29 cannabis cultivation, processing, distribution, transport, equity in the  
30 cannabis industry, public health concerns related to cannabis, and on  
31 the testing and sale of cannabis and cannabis products.

32 2. The executive director of the office shall serve as the chairperson  
33 of the board. The vice chairperson shall be elected from among the  
34 members of the board by the members of such board, and shall represent  
35 the board in the absence of the chairperson at all official board func-  
36 tions.

37 3. The members of the board shall be appointed by the temporary presi-  
38 dent of the senate and the speaker of the assembly and shall receive no  
39 compensation for their services but shall be allowed their actual and  
40 necessary expenses incurred in the performance of their duties as board  
41 members.

42 4. The executive director shall promulgate regulations establishing  
43 the number of members on the board, the term of the board members and  
44 any other terms or conditions regarding the state cannabis advisory  
45 board, including that such board shall include members from the  
46 geographic regions of the state.

47 5. Every effort shall be made to ensure a balanced and diverse board,  
48 which shall have expertise in public and behavioral health, substance  
49 use disorder treatment, effective rehabilitative treatment for adults  
50 and juveniles, economic development, environmental conservation, job  
51 training and placement, criminal justice, and drug policy. Further, the  
52 board shall include residents from communities most impacted by cannabis  
53 prohibition, people with prior drug convictions, the formerly incarcer-  
54 ated, and representatives of organizations serving communities impacted  
55 by past federal and state drug policies.

1 § 14. Disposition of moneys received for license fees. The office  
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 office 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 office, dependent on the size and capacity of the business.

14 4. The office shall deposit all fees collected in the New York state  
15 cannabis revenue fund established pursuant to section ninety-nine-hh of  
16 the state finance law.

17 § 15. Legal presumptions. The action, proceedings, authority, and  
18 orders of the office in enforcing the provisions of the cannabis law and  
19 applying them to specific cases shall at all times be regarded as in  
20 their nature judicial, and shall be treated as prima facie just and  
21 legal.

22 § 16. Violations of cannabis laws or regulations; penalties and  
23 injunctions. 1. A person who willfully violates any provision of this  
24 chapter, or any regulation lawfully made or established by any public  
25 officer under authority of this chapter, the punishment for violating  
26 which is not otherwise prescribed by this chapter or any other law, is  
27 punishable by imprisonment not exceeding one year, or by a fine not  
28 exceeding five thousand dollars or by both.

29 2. Any person who violates, disobeys or disregards any term or  
30 provision of this chapter or of any lawful notice, order or regulation  
31 pursuant thereto for which a civil or criminal penalty is not otherwise  
32 expressly prescribed by law, shall be liable to the people of the state  
33 for a civil penalty of not to exceed five thousand dollars for every  
34 such violation.

35 3. The penalty provided for in subdivision one of this section may be  
36 recovered by an action brought by the executive director in any court of  
37 competent jurisdiction.

38 4. Such civil penalty may be released or compromised by the executive  
39 director before the matter has been referred to the attorney general,  
40 and where such matter has been referred to the attorney general, any  
41 such penalty may be released or compromised and any action commenced to  
42 recover the same may be settled and discontinued by the attorney general  
43 with the consent of the executive director.

44 5. It shall be the duty of the attorney general upon the request of  
45 the executive director to bring an action for an injunction against any  
46 person who violates, disobeys or disregards any term or provision of  
47 this chapter or of any lawful notice, order or regulation pursuant ther-  
48 eto; provided, however, that the executive director shall furnish the  
49 attorney general with such material, evidentiary matter or proof as may  
50 be requested by the attorney general for the prosecution of such an  
51 action.

52 6. It is the purpose of this section to provide additional and cumula-  
53 tive remedies, and nothing herein contained shall abridge or alter  
54 rights of action or remedies now or hereafter existing, nor shall any  
55 provision of this section, nor any action done by virtue of this

1 section, be construed as estopping the state, persons or municipalities  
2 in the exercising of their respective rights.

3 § 17. Formal hearings; notice and procedure. 1. The executive direc-  
4 tor, or any person designated by him or her for this purpose, may issue  
5 subpoenas and administer oaths in connection with any hearing or inves-  
6 tigation under or pursuant to this chapter, and it shall be the duty of  
7 the executive director and any persons designated by him or her for such  
8 purpose to issue subpoenas at the request of and upon behalf of the  
9 respondent.

10 2. The executive director and those designated by him or her shall not  
11 be bound by the laws of evidence in the conduct of hearing proceedings,  
12 but the determination shall be founded upon sufficient evidence to  
13 sustain it.

14 3. Notice of hearing shall be served at least fifteen days prior to  
15 the date of the hearing, provided that, whenever because of danger to  
16 the public health, safety or welfare it appears prejudicial to the  
17 interests of the people of the state to delay action for fifteen days,  
18 the executive director may serve the respondent with an order requiring  
19 certain action or the cessation of certain activities immediately or  
20 within a specified period of less than fifteen days.

21 4. Service of notice of hearing or order shall be made by personal  
22 service or by registered or certified mail. Where service, whether by  
23 personal service or by registered or certified mail, is made upon an  
24 incompetent, partnership, or corporation, it shall be made upon the  
25 person or persons designated to receive personal service by article  
26 three of the civil practice law and rules.

27 5. At a hearing, the respondent may appear personally, shall have the  
28 right of counsel, and may cross-examine witnesses against him or her and  
29 produce evidence and witnesses in his or her behalf.

30 6. Following a hearing, the executive director may make appropriate  
31 determinations and issue a final order in accordance therewith.

32 7. The executive director may adopt, amend and repeal administrative  
33 rules and regulations governing the procedures to be followed with  
34 respect to hearings, such rules to be consistent with the policy and  
35 purpose of this chapter and the effective and fair enforcement of its  
36 provisions.

37 8. The provisions of this section shall be applicable to all hearings  
38 held pursuant to this chapter, except where other provisions of this  
39 chapter applicable thereto are inconsistent therewith, in which event  
40 such other provisions shall apply.

41 § 18. Ethics, transparency and accountability. No member of the  
42 office or any officer, deputy, assistant, inspector or employee thereof  
43 shall have any interest, direct or indirect, either proprietary or by  
44 means of any loan, mortgage or lien, or in any other manner, in or on  
45 any premises where adult use cannabis, medical cannabis or hemp extract  
46 is cultivated, processed, distributed or sold; nor shall he or she have  
47 any interest, direct or indirect, in any business wholly or partially  
48 devoted to the cultivation, processing, distribution, sale, transporta-  
49 tion or storage of adult use cannabis, medical cannabis or hemp extract,  
50 or own any stock in any corporation which has any interest, proprietary  
51 or otherwise, direct or indirect, in any premises where adult use canna-  
52 bis, medical cannabis or hemp extract is cultivated, processed, distrib-  
53 uted or sold, or in any business wholly or partially devoted to the  
54 cultivation, processing, distribution, sale, transportation or storage  
55 of adult use cannabis, medical cannabis or hemp extract, or receive any  
56 commission or profit whatsoever, direct or indirect, from any person



1 applying for or receiving any license or permit provided for in this  
2 chapter, or hold any other elected or appointed public office in the  
3 state or in any political subdivision. Anyone who violates any of the  
4 provisions of this section shall be removed and shall divulge themselves  
5 of such direct or indirect interests, in addition to any other penalty  
6 provided by law.

7 ARTICLE 3  
8 MEDICAL CANNABIS

9 Section 30. Certification of patients.

- 10 31. Lawful medical use.  
11 32. Registry identification cards.  
12 33. Registration as a designated caregiver facility.  
13 34. Registered organizations.  
14 35. Registering of registered organizations.  
15 36. Reports of registered organizations.  
16 37. Evaluation; research programs; report by office.  
17 38. Cannabis research license.  
18 39. Registered organizations and adult-use cannabis.  
19 40. Relation to other laws.  
20 41. Protections for the medical use of cannabis.  
21 42. Regulations.  
22 43. Suspend; terminate.  
23 44. Pricing.

24 § 30. Certification of patients. 1. A patient certification may only  
25 be issued if:

26 (a) the patient has a condition, which shall be specified in the  
27 patient's health care record;

28 (b) the practitioner by training or experience is qualified to treat  
29 the condition;

30 (c) the patient is under the practitioner's continuing care for the  
31 condition; and

32 (d) in the practitioner's professional opinion and review of past  
33 treatments, the patient is likely to receive therapeutic or palliative  
34 benefit from the primary or adjunctive treatment with medical use of  
35 cannabis for the condition.

36 2. The certification shall include: (a) the name, date of birth and  
37 address of the patient; (b) a statement that the patient has a condition  
38 and the patient is under the practitioner's care for the condition; (c)  
39 a statement attesting that all requirements of subdivision one of this  
40 section have been satisfied; (d) the date; and (e) the name, address,  
41 telephone number, and the signature of the certifying practitioner. The  
42 executive director may require by regulation that the certification  
43 shall be on a form provided by the office. The practitioner may state in  
44 the certification that, in the practitioner's professional opinion, the  
45 patient would benefit from medical cannabis only until a specified date.  
46 The practitioner may state in the certification that, in the practition-  
47 er's professional opinion, the patient is terminally ill and that the  
48 certification shall not expire until the patient dies.

49 3. In making a certification, the practitioner may consider the form  
50 of medical cannabis the patient should consume, including the method of  
51 consumption and any particular strain, variety, and quantity or percent-  
52 age of cannabis or particular active ingredient, and appropriate dosage.  
53 The practitioner may state in the certification any recommendation or

1 limitation the practitioner makes, in his or her professional opinion,  
2 concerning the appropriate form or forms of medical cannabis and dosage.

3 4. Every practitioner shall consult the prescription monitoring  
4 program registry prior to making or issuing a certification, for the  
5 purpose of reviewing a patient's controlled substance history. For  
6 purposes of this section, a practitioner may authorize a designee to  
7 consult the prescription monitoring program registry on his or her  
8 behalf, provided that such designation is in accordance with section  
9 thirty-three hundred forty-three-a of the public health law.

10 5. The practitioner shall give the certification to the certified  
11 patient, and place a copy in the patient's health care record.

12 6. No practitioner shall issue a certification under this section for  
13 themselves.

14 7. A registry identification card based on a certification shall  
15 expire one year after the date the certification is signed by the prac-  
16 titioner.

17 8. (a) If the practitioner states in the certification that, in the  
18 practitioner's professional opinion, the patient would benefit from  
19 medical cannabis only until a specified earlier date, then the registry  
20 identification card shall expire on that date; (b) if the practitioner  
21 states in the certification that in the practitioner's professional  
22 opinion the patient is terminally ill and that the certification shall  
23 not expire until the patient dies, then the registry identification card  
24 shall state that the patient is terminally ill and that the registration  
25 card shall not expire until the patient dies; (c) if the practitioner  
26 re-issues the certification to terminate the certification on an earlier  
27 date, then the registry identification card shall expire on that date  
28 and shall be promptly destroyed by the certified patient; (d) if the  
29 certification so provides, the registry identification card shall state  
30 any recommendation or limitation by the practitioner as to the form or  
31 forms of medical cannabis or dosage for the certified patient; and (e)  
32 the executive director shall make regulations to implement this subdivi-  
33 sion.

34 § 31. Lawful medical use. The possession, acquisition, use, delivery,  
35 transfer, transportation, or administration of medical cannabis by a  
36 certified patient, designated caregiver or the employees of a designated  
37 caregiver facility, for certified medical use, shall be lawful under  
38 this article provided that:

39 1. the cannabis that may be possessed by a certified patient shall not  
40 exceed a sixty-day supply of the dosage if determined by the practition-  
41 er, consistent with any guidance and regulations issued by the executive  
42 director, provided that during the last seven days of any sixty-day  
43 period, the certified patient may also possess up to such amount for the  
44 next sixty-day period;

45 2. the cannabis that may be possessed by designated caregivers does  
46 not exceed the quantities referred to in subdivision one of this section  
47 for each certified patient for whom the caregiver possesses a valid  
48 registry identification card, up to five certified patients;

49 3. the cannabis that may be possessed by designated caregiver facili-  
50 ties does not exceed the quantities referred to in subdivision one of  
51 this section for each certified patient under the care or treatment of  
52 the facility;

53 4. the form or forms of medical cannabis that may be possessed by the  
54 certified patient, designated caregiver or designated caregiver facility  
55 pursuant to a certification shall be in compliance with any recommenda-  
56 tion or limitation by the practitioner as to the form or forms of

1 medical cannabis or dosage for the certified patient in the certifi-  
2 cation;

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

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

10 § 32. Registry identification cards. 1. Upon approval of the certifi-  
11 cation, the office shall issue registry identification cards for certifi-  
12 fied patients and designated caregivers. A registry identification card  
13 shall expire as provided in this article or as otherwise provided in  
14 this section. The office shall begin issuing registry identification  
15 cards as soon as practicable after the certifications required by this  
16 chapter are granted. The office may specify a form for a registry appli-  
17 cation, in which case the office shall provide the form on request,  
18 reproductions of the form may be used, and the form shall be available  
19 for downloading from the office's website.

20 2. To obtain, amend or renew a registry identification card, a certifi-  
21 fied patient or designated caregiver shall file a registry application  
22 with the office, unless otherwise exempted by the executive director in  
23 regulation. The registry application or renewal application shall  
24 include:

25 (a) in the case of a certified patient:

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

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

29 (iii) the date of the certification;

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

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

35 (vi) the name, address, and telephone number of the certifying practi-  
36 tioner;

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

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

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

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

48 (b) in the case of a designated caregiver:

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

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

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

54 (c) a statement that a false statement made in the application is  
55 punishable under section 210.45 of the penal law;

1 (d) the date of the application and the signature of the certified  
2 patient or designated caregiver, as the case may be;

3 (e) any other requirements determined by the executive director.

4 3. Where a certified patient is under the age of eighteen or otherwise  
5 incapable of consent:

6 (a) The application for a registry identification card shall be made  
7 by the person responsible for making health care decisions for the  
8 patient.

9 (b) The designated caregiver shall be: (i) a parent or legal guardian  
10 of the certified patient; (ii) a person designated by a parent or legal  
11 guardian; (iii) an employee of a designated caregiver facility, includ-  
12 ing a cannabis research license holder; or (iv) an appropriate person  
13 approved by the office upon a sufficient showing that no parent or legal  
14 guardian is appropriate or available.

15 4. No person may be a designated caregiver if the person is under  
16 twenty-one years of age unless a sufficient showing is made to the  
17 office that the person should be permitted to serve as a designated  
18 caregiver. The requirements for such a showing shall be determined by  
19 the executive director.

20 5. No person may be a designated caregiver for more than five certi-  
21 fied patients at one time; provided, however, that this limitation shall  
22 not apply to a designated caregiver facility, or cannabis research  
23 license holder as defined by this chapter.

24 6. If a certified patient wishes to change or terminate his or her  
25 designated caregiver, for whatever reason, the certified patient shall  
26 notify the office as soon as practicable. The office shall issue a  
27 notification to the designated caregiver that their registration card is  
28 invalid and must be promptly destroyed. The newly designated caregiver  
29 must comply with all requirements set forth in this section.

30 7. If the certification so provides, the registry identification card  
31 shall contain any recommendation or limitation by the practitioner as to  
32 the form or forms of medical cannabis or dosage for the certified  
33 patient.

34 8. The office shall issue separate registry identification cards for  
35 certified patients and designated caregivers as soon as reasonably prac-  
36 ticable after receiving a complete application under this section,  
37 unless it determines that the application is incomplete or factually  
38 inaccurate, in which case it shall promptly notify the applicant.

39 9. If the application of a certified patient designates an individual  
40 as a designated caregiver who is not authorized to be a designated care-  
41 giver, that portion of the application shall be denied by the office but  
42 that shall not affect the approval of the balance of the application.

43 10. A registry identification card shall:

44 (a) contain the name of the certified patient or the designated care-  
45 giver as the case may be;

46 (b) contain the date of issuance and expiration date of the registry  
47 identification card;

48 (c) contain a registry identification number for the certified patient  
49 or designated caregiver, as the case may be and a registry identifica-  
50 tion number;

51 (d) contain a photograph of the individual to whom the registry iden-  
52 tification card is being issued, which shall be obtained by the office  
53 in a manner specified by the executive director in regulations;  
54 provided, however, that if the office requires certified patients to  
55 submit photographs for this purpose, there shall be a reasonable accom-  
56 modation of certified patients who are confined to their homes due to

1 their medical conditions and may therefore have difficulty procuring  
2 photographs;

3 (e) be a secure document as determined by the office;

4 (f) plainly state any recommendation or limitation by the practitioner  
5 as to the form or forms of medical cannabis or dosage for the certified  
6 patient; and

7 (g) any other requirements determined by the executive director.

8 11. A certified patient or designated caregiver who has been issued a  
9 registry identification card shall notify the office of any change in  
10 his or her name or address or, with respect to the patient, if he or she  
11 ceases to have the condition noted on the certification within ten days  
12 of such change. The certified patient's or designated caregiver's regis-  
13 try identification card shall be deemed invalid and shall be promptly  
14 destroyed.

15 12. If a certified patient or designated caregiver loses his or her  
16 registry identification card, he or she shall notify the office within  
17 ten days of losing the card. The office shall issue a new registry iden-  
18 tification card as soon as practicable, which may contain a new registry  
19 identification number, to the certified patient or designated caregiver,  
20 as the case may be.

21 13. The office shall maintain a confidential list of the persons to  
22 whom it has issued registry identification cards. Individual identifying  
23 information obtained by the office under this article shall be confiden-  
24 tial and exempt from disclosure under article six of the public officers  
25 law. Notwithstanding this subdivision, the office may notify any appro-  
26 priate law enforcement agency of information relating to any violation  
27 or suspected violation of this article.

28 14. The office shall verify to law enforcement personnel in an appro-  
29 priate case whether a registry identification card is valid.

30 15. If a certified patient or designated caregiver willfully violates  
31 any provision of this article as determined by the executive director,  
32 his or her certification and registry identification card may be  
33 suspended or revoked. This is in addition to any other penalty that may  
34 apply.

35 § 33. Registration as a designated caregiver facility. 1. To obtain,  
36 amend or renew a registration as a designated caregiver facility, the  
37 facility shall file a registry application with the office. The registry  
38 application or renewal application shall include:

39 (a) the facility's full name and address;

40 (b) operating certificate or license number where appropriate;

41 (c) printed name, title, and signature of an authorized facility  
42 representative;

43 (d) a statement that the facility agrees to secure and ensure proper  
44 handling of all medical cannabis products;

45 (e) an acknowledgement that a false statement in the application is  
46 punishable under section 210.45 of the penal law; and

47 (f) any other information that may be required by the executive direc-  
48 tor.

49 2. Prior to issuing or renewing a designated caregiver facility regis-  
50 tration, the office may verify the information submitted by the appli-  
51 cant. The applicant shall provide, at the office's request, such infor-  
52 mation and documentation, including any consents or authorizations that  
53 may be necessary for the office to verify the information.

54 3. The office shall approve, deny or determine incomplete or inaccu-  
55 rate an initial or renewal application within thirty days of receipt of  
56 the application. If the application is approved within the thirty-day

1 period, the office shall issue a registration as soon as is reasonably  
2 practicable.

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

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

11 § 34. Registered organizations. 1. A registered organization shall be  
12 a for-profit business entity or not-for-profit corporation organized for  
13 the purpose of acquiring, possessing, manufacturing, selling, deliver-  
14 ing, transporting, distributing or dispensing cannabis for certified  
15 medical use.

16 2. The acquiring, possession, manufacture, sale, delivery, transport-  
17 ing, distributing or dispensing of medical cannabis by a registered  
18 organization under this article in accordance with its registration  
19 under this article or a renewal thereof shall be lawful under this chap-  
20 ter.

21 3. Each registered organization shall contract with an independent  
22 laboratory permitted by the office to test the medical cannabis produced  
23 by the registered organization. The executive director shall approve the  
24 laboratory used by the registered organization and may require that the  
25 registered organization use a particular testing laboratory. The execu-  
26 tive director is authorized to issue regulations requiring the laborato-  
27 ry to perform certain tests and services.

28 4. (a) A registered organization may lawfully, in good faith, sell,  
29 deliver, distribute or dispense medical cannabis to a certified patient  
30 or designated caregiver upon presentation to the registered organization  
31 of a valid registry identification card for that certified patient or  
32 designated caregiver. When presented with the registry identification  
33 card, the registered organization shall provide to the certified patient  
34 or designated caregiver a receipt, which shall state: the name, address,  
35 and registry identification number of the registered organization; the  
36 name and registry identification number of the certified patient and the  
37 designated caregiver, if any; the date the cannabis was sold; any recom-  
38 mendation or limitation by the practitioner as to the form or forms of  
39 medical cannabis or dosage for the certified patient; and the form and  
40 the quantity of medical cannabis sold. The registered organization shall  
41 retain a copy of the registry identification card and the receipt for  
42 six years.

43 (b) The proprietor of a registered organization shall file or cause to  
44 be filed any receipt and certification information with the office by  
45 electronic means on a real-time basis as the executive director shall  
46 require by regulation. When filing receipt and certification information  
47 electronically pursuant to this paragraph, the proprietor of the regis-  
48 tered organization shall dispose of any electronically recorded  
49 prescription information in such manner as the executive director shall  
50 by regulation require.

51 5. (a) No registered organization may sell, deliver, distribute or  
52 dispense to any certified patient or designated caregiver a quantity of  
53 medical cannabis larger than that individual would be allowed to possess  
54 under this chapter.

55 (b) When dispensing medical cannabis to a certified patient or desig-  
56 nated caregiver, the registered organization: (i) shall not dispense an

1 amount greater than a sixty-day supply to a certified patient until the  
2 certified patient has exhausted all but a seven day supply provided  
3 pursuant to a previously issued certification; and (ii) shall verify the  
4 information in subparagraph (i) of this paragraph by consulting the  
5 prescription monitoring program registry under this article.

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

10 6. When a registered organization sells, delivers, distributes or  
11 dispenses medical cannabis to a certified patient or designated caregiv-  
12 er, it shall provide to that individual a safety insert, which will be  
13 developed by the registered organization and approved by the executive  
14 director and include, but not be limited to, information on:

15 (a) methods for administering medical cannabis,

16 (b) any potential dangers stemming from the use of medical cannabis,

17 (c) how to recognize what may be problematic usage of medical cannabis  
18 and obtain appropriate services or treatment for problematic usage, and

19 (d) other information as determined by the executive director.

20 7. Registered organizations shall not be managed by or employ anyone  
21 who has been convicted within three years of the date of hire, of any  
22 felony related to the functions or duties of operating a business,  
23 except that if the executive director determines that the manager or  
24 employee is otherwise suitable to be hired, and hiring the manager or  
25 employee would not compromise public safety, the executive director  
26 shall conduct a thorough review of the nature of the crime, conviction,  
27 circumstances, and evidence of rehabilitation of the manager or employ-  
28 ee, and shall evaluate the suitability of the manager or employee based  
29 on the evidence found through the review. In determining which offenses  
30 are substantially related to the functions or duties of operating a  
31 business, the executive director shall include, but not be limited to,  
32 the following:

33 (a) a felony conviction involving fraud, money laundering, forgery and  
34 other unlawful conduct related to owning and operating a business; and

35 (b) a felony conviction for hiring, employing or using a minor in  
36 transporting, carrying, selling, giving away, preparing for sale, or  
37 peddling, any controlled substance, or selling, offering to sell,  
38 furnishing, offering to furnish, administering, or giving any controlled  
39 substance to a minor.

40 A felony conviction for the sale or possession of drugs, narcotics, or  
41 controlled substances is not substantially related. This subdivision  
42 shall only apply to managers or employees who come into contact with or  
43 handle medical cannabis.

44 8. Manufacturing of medical cannabis by a registered organization  
45 shall only be done in an indoor, enclosed, secure facility located in  
46 New York state, which may include a greenhouse. The executive director  
47 shall promulgate regulations establishing requirements for such facili-  
48 ties.

49 9. Dispensing of medical cannabis by a registered organization shall  
50 only be done in an indoor, enclosed, secure facility located in New York  
51 state, which may include a greenhouse. The executive director shall  
52 promulgate regulations establishing requirements for such facilities.

53 10. A registered organization may contract with a person or entity to  
54 provide facilities, equipment or services that are ancillary to the  
55 registered organization's functions or activities under this article  
56 including, but not limited to, shipping, maintenance, construction,



1 repair, and security, provided that the person or entity shall not  
2 perform any function or activity directly involving the planting, grow-  
3 ing, tending, harvesting, processing, or packaging of cannabis plants,  
4 medical cannabis, or medical cannabis products being produced by the  
5 registered organization; or any other function directly involving manu-  
6 facturing or retailing of medical cannabis. All laws and regulations  
7 applicable to such facilities, equipment, or services shall apply to the  
8 contract. The registered organization and other parties to the contract  
9 shall each be responsible for compliance with such laws and regulations  
10 under the contract. The executive director may make regulations consist-  
11 ent with this article relating to contracts and parties to contracts  
12 under this subdivision.

13 11. A registered organization shall, based on the findings of an inde-  
14 pendent laboratory, provide documentation of the quality, safety and  
15 clinical strength of the medical cannabis manufactured or dispensed by  
16 the registered organization to the office and to any person or entity to  
17 which the medical cannabis is sold or dispensed.

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

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

35 14. The executive director is authorized to make rules and regulations  
36 restricting the advertising and marketing of medical cannabis.

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

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

44 (ii) that the applicant:

45 (A) is of good moral character;

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

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

53 (D) is able to comply with all applicable state laws and regulations  
54 relating to the activities in which it intends to engage under the  
55 registration;



1 (iii) that the applicant has entered into a labor peace agreement with  
2 a bona fide labor organization that is actively engaged in representing  
3 or attempting to represent the applicant's employees and the maintenance  
4 of such a labor peace agreement shall be an ongoing material condition  
5 of certification;

6 (iv) the applicant's status as a for-profit business entity or not-  
7 for-profit corporation; and

8 (v) the application shall include the name, residence address and  
9 title of each of the officers and directors and the name and residence  
10 address of any person or entity that is a member of the applicant. Each  
11 such person, if an individual, or lawful representative if a legal enti-  
12 ty, shall submit an affidavit with the application setting forth:

13 (A) any position of management or ownership during the preceding ten  
14 years of a twenty per centum or greater interest in any other business,  
15 located in or outside this state, manufacturing or distributing drugs;

16 (B) whether such person or any such business has been convicted of a  
17 felony or had a registration or license suspended or revoked in any  
18 administrative or judicial proceeding; and

19 (C) such other information as the executive director may reasonably  
20 require.

21 2. The applicant shall be under a continuing duty to report to the  
22 office any change in facts or circumstances reflected in the application  
23 or any newly discovered or occurring fact or circumstance which is  
24 required to be included in the application.

25 3. (a) The executive director shall grant a registration or amendment  
26 to a registration under this section if he or she is satisfied that:

27 (i) the applicant will be able to maintain effective control against  
28 diversion of cannabis;

29 (ii) the applicant will be able to comply with all applicable state  
30 laws;

31 (iii) the applicant and its officers are ready, willing and able to  
32 properly carry on the manufacturing or distributing activity for which a  
33 registration is sought;

34 (iv) the applicant possesses or has the right to use sufficient land,  
35 buildings and equipment to properly carry on the activity described in  
36 the application;

37 (v) it is in the public interest that such registration be granted,  
38 including but not limited to:

39 (A) whether the number of registered organizations in an area will be  
40 adequate or excessive to reasonably serve the area;

41 (B) whether the registered organization is a minority and/or woman  
42 owned business enterprise or a service-disabled veteran-owned business;

43 (C) whether the registered organization provides education and  
44 outreach to practitioners;

45 (D) whether the registered organization promotes the research and  
46 development of medical cannabis and patient outreach; and

47 (E) the affordability of medical cannabis products offered by the  
48 registered organization;

49 (vi) the applicant and its managing officers are of good moral charac-  
50 ter;

51 (vii) the applicant has entered into a labor peace agreement with a  
52 bona fide labor organization that is actively engaged in representing or  
53 attempting to represent the applicant's employees; and the maintenance  
54 of such a labor peace agreement shall be an ongoing material condition  
55 of registration; and

1 (viii) the applicant satisfies any other conditions as determined by  
2 the executive director.

3 (b) If the executive director is not satisfied that the applicant  
4 should be issued a registration, he or she shall notify the applicant in  
5 writing of those factors upon which the denial is based. Within thirty  
6 days of the receipt of such notification, the applicant may submit a  
7 written request to the executive director to appeal the decision.

8 (c) The fee for a registration under this section shall be an amount  
9 determined by the office in regulations; provided, however, if the  
10 registration is issued for a period greater than two years the fee shall  
11 be increased, pro rata, for each additional month of validity.

12 (d) Registrations issued under this section shall be effective only  
13 for the registered organization and shall specify:

14 (i) the name and address of the registered organization;

15 (ii) which activities of a registered organization are permitted by  
16 the registration;

17 (iii) the land, buildings and facilities that may be used for the  
18 permitted activities of the registered organization; and

19 (iv) such other information as the executive director shall reasonably  
20 provide to assure compliance with this article.

21 (e) Upon application of a registered organization, a registration may  
22 be amended to allow the registered organization to relocate within the  
23 state or to add or delete permitted registered organization activities  
24 or facilities. The fee for such amendment shall be two hundred fifty  
25 dollars.

26 4. A registration issued under this section shall be valid for two  
27 years from the date of issue, except that in order to facilitate the  
28 renewals of such registrations, the executive director may upon the  
29 initial application for a registration, issue some registrations which  
30 may remain valid for a period of time greater than two years but not  
31 exceeding an additional eleven months.

32 5. (a) An application for the renewal of any registration issued  
33 under this section shall be filed with the office not more than six  
34 months nor less than four months prior to the expiration thereof. A  
35 late-filed application for the renewal of a registration may, in the  
36 discretion of the executive director, be treated as an application for  
37 an initial license.

38 (b) The application for renewal shall include such information  
39 prepared in the manner and detail as the executive director may require,  
40 including but not limited to:

41 (i) any material change in the circumstances or factors listed in  
42 subdivision one of this section; and

43 (ii) every known charge or investigation, pending or concluded during  
44 the period of the registration, by any governmental or administrative  
45 agency with respect to:

46 (A) each incident or alleged incident involving the theft, loss, or  
47 possible diversion of medical cannabis manufactured or distributed by  
48 the applicant; and

49 (B) compliance by the applicant with the laws of the state with  
50 respect to any substance listed in section thirty-three hundred six of  
51 the public health law.

52 (c) An applicant for renewal shall be under a continuing duty to  
53 report to the office any change in facts or circumstances reflected in  
54 the application or any newly discovered or occurring fact or circum-  
55 stance which is required to be included in the application.

1 (d) If the executive director is not satisfied that the registered  
2 organization applicant is entitled to a renewal of the registration, he  
3 or she shall within a reasonably practicable time as determined by the  
4 executive director, serve upon the registered organization or its attor-  
5 ney of record in person or by registered or certified mail an order  
6 directing the registered organization to show cause why its applica-  
7 tion for renewal should not be denied. The order shall specify in detail the  
8 respects in which the applicant has not satisfied the executive director  
9 that the registration should be renewed.

10 6. (a) The executive director shall renew a registration unless he or  
11 she determines and finds that:

12 (i) the applicant is unlikely to maintain or be able to maintain  
13 effective control against diversion;

14 (ii) the applicant is unlikely to comply with all state laws applica-  
15 ble to the activities in which it may engage under the registration;

16 (iii) it is not in the public interest to renew the registration  
17 because the number of registered organizations in an area is excessive  
18 to reasonably serve the area; or

19 (iv) the applicant has either violated or terminated its labor peace  
20 agreement.

21 (b) For purposes of this section, proof that a registered organiza-  
22 tion, during the period of its registration, has failed to maintain  
23 effective control against diversion, violates any provision of this  
24 article, or has knowingly or negligently failed to comply with applica-  
25 ble state laws relating to the activities in which it engages under the  
26 registration, shall constitute grounds for suspension, termination or  
27 limitation of the registered organization's registration or as deter-  
28 mined by the executive director. The registered organization shall also  
29 be under a continuing duty to report to the authority any material  
30 change or fact or circumstance to the information provided in the regis-  
31 tered organization's application.

32 7. The office may suspend or terminate the registration of a regis-  
33 tered organization, on grounds and using procedures under this article  
34 relating to a license, to the extent consistent with this article. The  
35 authority shall suspend or terminate the registration in the event that  
36 a registered organization violates or terminates the applicable labor  
37 peace agreement. Conduct in compliance with this article which may  
38 violate conflicting federal law, shall not be grounds to suspend or  
39 terminate a registration.

40 8. A registered organization that manufactures medical cannabis may  
41 have no more than four dispensing sites wholly owned and operated by  
42 such registered organization. The executive director shall ensure that  
43 such registered organizations and dispensing sites are geographically  
44 distributed across the state and that their ownership reflects the demo-  
45 graphics of the state. The executive director shall register additional  
46 registered organizations reflecting the demographics of the state.

47 § 36. Reports of registered organizations. 1. The executive director  
48 shall, by regulation, require each registered organization to file  
49 reports by the registered organization during a particular period. The  
50 executive director shall determine the information to be reported and  
51 the forms, time, and manner of the reporting.

52 2. The executive director shall, by regulation, require each regis-  
53 tered organization to adopt and maintain security, tracking, record  
54 keeping, record retention and surveillance systems, relating to all  
55 medical cannabis at every stage of acquiring, possession, manufacture,

1 sale, delivery, transporting, distributing, or dispensing by the regis-  
2 tered organization, subject to regulations of the executive director.

3 § 37. Evaluation; research programs; report by office. 1. The execu-  
4 tive director may provide for the analysis and evaluation of the opera-  
5 tion of this article. The executive director may enter into agreements  
6 with one or more persons, not-for-profit corporations or other organiza-  
7 tions, for the performance of an evaluation of the implementation and  
8 effectiveness of this article.

9 2. The office may develop, seek any necessary federal approval for,  
10 and carry out research programs relating to medical use of cannabis.  
11 Participation in any such research program shall be voluntary on the  
12 part of practitioners, patients, and designated caregivers.

13 3. The office shall report every two years, beginning two years after  
14 the effective date of this chapter, to the governor and the legislature  
15 on the medical use of cannabis under this article and make appropriate  
16 recommendations.

17 § 38. Cannabis research license. 1. The executive director shall  
18 establish a cannabis research license that permits a licensee to  
19 produce, process, purchase and possess cannabis for the following limit-  
20 ed research purposes:

21 (a) to test chemical potency and composition levels;

22 (b) to conduct clinical investigations of cannabis-derived drug  
23 products;

24 (c) to conduct research on the efficacy and safety of administering  
25 cannabis as part of medical treatment; and

26 (d) to conduct genomic or agricultural research.

27 2. As part of the application process for a cannabis research license,  
28 an applicant must submit to the office a description of the research  
29 that is intended to be conducted as well as the amount of cannabis to be  
30 grown or purchased. The office shall review an applicant's research  
31 project and determine whether it meets the requirements of subdivision  
32 one of this section. In addition, the office shall assess the applica-  
33 tion based on the following criteria:

34 (a) project quality, study design, value, and impact;

35 (b) whether the applicant has the appropriate personnel, expertise,  
36 facilities and infrastructure, funding, and human, animal, or other  
37 approvals in place to successfully conduct the project; and

38 (c) whether the amount of cannabis to be grown or purchased by the  
39 applicant is consistent with the project's scope and goals. If the  
40 office determines that the research project does not meet the require-  
41 ments of subdivision one of this section, the application must be  
42 denied.

43 3. A cannabis research licensee may only sell cannabis grown or within  
44 its operation to other cannabis research licensees. The office may  
45 revoke a cannabis research license for violations of this subsection.

46 4. A cannabis research licensee may contract with the higher education  
47 institutions to perform research in conjunction with the university. All  
48 research projects, entered into under this section must be approved by  
49 the office and meet the requirements of subdivision one of this section.

50 5. In establishing a cannabis research license, the executive director  
51 may adopt regulations on the following:

52 (a) application requirements;

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

55 (c) conditions for license revocation;

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

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

5 (f) licensee reporting requirements;

6 (g) conditions under which cannabis grown by licensed cannabis produc-  
7 ers and other product types from licensed cannabis processors may be  
8 donated to cannabis research licensees; and

9 (h) any additional requirements deemed necessary by the office.

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

14 7. The application fee for a cannabis research license shall be deter-  
15 mined by the executive director on an annual basis.

16 8. Each cannabis research licensee shall issue an annual report to the  
17 office. The office shall review such report and make a determination as  
18 to whether the research project continues to meet the research quali-  
19 fications under this section.

20 § 39. Registered organizations and adult-use cannabis. 1. The execu-  
21 tive director shall have the authority to grant some or all of the  
22 registered organizations registered with the department of health and  
23 currently registered and in good standing with the office, the ability  
24 to be licensed to cultivate, process, or sell adult-use cannabis and  
25 cannabis products, pursuant to any fees, rules or conditions prescribed  
26 by the executive director in regulation and subject to the restrictions  
27 on licensed adult-use cultivators and processors on having any ownership  
28 interest in a licensed adult-use retail dispensary pursuant to this  
29 chapter.

30 2. Prior to granting the licenses provided by subdivision one of this  
31 section, the office shall assess a registered organization registered  
32 prior to the enactment of this chapter with a one-time special licensing  
33 fee so that they may become authorized to bypass the restrictions on  
34 having any ownership interest in a licensed adult-use retail dispensary,  
35 provided that the fees generated from such assessment shall be used to  
36 administer incubators and low or zero-interest loans and other assist-  
37 ance to qualified social equity applicants. The timing and manner in  
38 which registered organizations may be granted such authority shall be  
39 determined by the executive director in regulation.

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

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

45 § 41. Protections for the medical use of cannabis. 1. Certified  
46 patients, designated caregivers, designated caregiver facilities, prac-  
47 titioners, registered organizations and the employees of registered  
48 organizations, and cannabis researchers shall not be subject to arrest,  
49 prosecution, or penalty in any manner, or denied any right or privilege,  
50 including but not limited to civil penalty or disciplinary action by a  
51 business or occupational or professional licensing board or bureau,  
52 solely for the certified medical use or manufacture of cannabis, or for  
53 any other action or conduct in accordance with this article.

54 2. Being a certified patient shall be deemed to be having a "disabili-  
55 ty" under article fifteen of the executive law, section forty-c of the  
56 civil rights law, sections 240.00, 485.00, and 485.05 of the penal law,

1 and section 200.50 of the criminal procedure law. This subdivision shall  
2 not bar the enforcement of a policy prohibiting an employee from  
3 performing his or her employment duties while impaired by a controlled  
4 substance. This subdivision shall not require any person or entity to do  
5 any act that would put the person or entity in direct violation of  
6 federal law or cause it to lose a federal contract or funding.

7 3. The fact that a person is a certified patient and/or acting in  
8 accordance with this article, shall not be a consideration in a proceed-  
9 ing pursuant to applicable sections of the domestic relations law, the  
10 social services law and the family court act.

11 4. (a) Certification applications, certification forms, any certified  
12 patient information contained within a database, and copies of registry  
13 identification cards shall be deemed exempt from public disclosure under  
14 sections eighty-seven and eighty-nine of the public officers law.

15 (b) The name, contact information, and other information relating to  
16 practitioners registered with the office under this article shall be  
17 public information and shall be maintained by the executive director on  
18 the office's website accessible to the public in searchable form. Howev-  
19 er, if a practitioner notifies the office in writing that he or she does  
20 not want his or her name and other information disclosed, that practi-  
21 tioner's name and other information shall thereafter not be public  
22 information or maintained on the office's website, unless the practi-  
23 tioner cancels the request.

24 § 42. Regulations. The executive director shall promulgate regu-  
25 lations in consultation with the cannabis advisory board to implement  
26 this article.

27 § 43. Suspend; terminate. Based upon the recommendation of the execu-  
28 tive director and/or the superintendent of state police that there is a  
29 risk to the public health or safety, the governor may immediately termi-  
30 nate all licenses issued to registered organizations.

31 § 44. Pricing. Registered organizations shall submit documentation to  
32 the executive director of any change in pricing per dose for any medical  
33 cannabis product within fifteen days of such change. Prior approval by  
34 the executive director shall not be required for any such change;  
35 provided however that the executive director is authorized to modify the  
36 price per dose for any medical cannabis product if necessary to maintain  
37 public access to appropriate medication.

#### 38 ARTICLE 4

#### 39 ADULT-USE CANNABIS

40 Section 60. Licenses issued.

41 61. License application.

42 62. Information to be requested in applications for licenses.

43 63. Fees.

44 64. Selection criteria.

45 65. Limitations of licensure; duration.

46 66. License renewal.

47 67. Amendments; changes in ownership and organizational struc-  
48 ture.

49 68. Adult-use cultivator license.

50 69. Adult-use processor license.

51 70. Adult-use cooperative license.

52 71. Adult-use distributor license.

53 72. Adult-use retail dispensary license.

54 73. Micro business license.



- 1 74. Notification to municipalities of adult-use retail dispensary.
- 2
- 3 75. On-site consumption license; provisions governing on-site
- 4 consumption licenses.
- 5 76. Record keeping and tracking.
- 6 77. Inspections and ongoing requirements.
- 7 78. Adult-use cultivators, processors or distributors not to be
- 8 interested in retail dispensaries.
- 9 79. Packaging and labeling of adult-use cannabis products.
- 10 80. Laboratory testing.
- 11 81. Provisions governing the cultivation and processing of
- 12 adult-use cannabis.
- 13 82. Provisions governing the distribution of adult-use cannabis.
- 14 83. Provisions governing adult-use cannabis retail dispensaries.
- 15 84. Adult-use cannabis advertising.
- 16 85. Social and economic equity, minority, women-owned busi-
- 17 nesses, and disadvantaged farmers; incubator program.
- 18 86. Regulations.

19 § 60. Licenses issued. The following kinds of licenses shall be  
20 issued by the executive director for the cultivation, processing,  
21 distribution and sale of cannabis, cannabis producers, and concentrated  
22 cannabis to cannabis consumers:

- 23 1. Adult-use cultivator license;
- 24 2. Adult-use processor license;
- 25 3. Adult-use cooperative license;
- 26 4. Adult-use distributor license;
- 27 5. Adult-use retail dispensary license;
- 28 6. On-site consumption license;
- 29 7. Microbusiness license;
- 30 8. Delivery license;
- 31 9. Nursery license; and
- 32 10. Any other type of license as prescribed by the executive director  
33 in regulation.

34 § 61. License Application. 1. Any person may apply to the office for  
35 a license to cultivate, process, distribute or dispense cannabis within  
36 this state for sale. Such application shall be in writing and verified  
37 and shall contain such information as the office shall require. Such  
38 application shall be accompanied by a check or draft for the amount  
39 required by this article for such license. If the office shall approve  
40 the application, it shall issue a license in such form as shall be  
41 determined by its rules. Such license shall contain a description of the  
42 licensed premises and in form and in substance shall be a license to the  
43 person therein specifically designated to cultivate, process, distribute  
44 or dispense cannabis in the premises therein specifically licensed.

45 2. Except as otherwise provided in this article, a separate license  
46 shall be required for each facility at which cultivation, processing,  
47 distribution or retail dispensing is conducted.

48 3. An applicant shall not be denied a license under this article based  
49 solely on a conviction for a violation of article two hundred twenty or  
50 section 240.36 of the penal law, prior to the date article two hundred  
51 twenty-two of the penal law took effect, or a conviction for a violation  
52 of article two hundred twenty-two of the penal law after the effective  
53 date of this chapter.

54 § 62. Information to be requested in applications for licenses. 1.  
55 The office shall have the authority to prescribe the manner and form in

1 which an application must be submitted to the office for licensure under  
2 this article.

3 2. The executive director is authorized to adopt regulations, includ-  
4 ing by emergency rule, establishing information which must be included  
5 on an application for licensure under this article. Such information may  
6 include, but is not limited to: information about the applicant's iden-  
7 tity, including racial and ethnic diversity; ownership and investment  
8 information, including the corporate structure; evidence of good moral  
9 character, including the submission of fingerprints by the applicant to  
10 the division of criminal justice services; information about the prem-  
11 ises to be licensed; financial statements; and any other information  
12 prescribed by regulation.

13 3. All license applications shall be signed by the applicant (if an  
14 individual), by a managing member (if a limited liability company), by  
15 an officer (if a corporation), or by all partners (if a partnership).  
16 Each person signing such application shall verify it or affirm it as  
17 true under the penalties of perjury.

18 4. All license or permit applications shall be accompanied by a check,  
19 draft or other forms of payment as the office may require or authorize  
20 in the amount required by this article for such license or permit.

21 5. If there be any change, after the filing of the application or the  
22 granting of a license, in any of the facts required to be set forth in  
23 such application, a supplemental statement giving notice of such change,  
24 cost and source of money involved in the change, duly verified, shall be  
25 filed with the office within ten days after such change. Failure to do  
26 so shall, if willful and deliberate, be cause for denial or revocation  
27 of the license.

28 6. In giving any notice, or taking any action in reference to a regis-  
29 tered organization or licensee of a licensed premises, the office may  
30 rely upon the information furnished in such application and in any  
31 supplemental statement connected therewith, and such information may be  
32 presumed to be correct, and shall be binding upon a registered organiza-  
33 tions, licensee or licensed premises as if correct. All information  
34 required to be furnished in such application or supplemental statements  
35 shall be deemed material in any prosecution for perjury, any proceeding  
36 to revoke, cancel or suspend any license, and in the office's determi-  
37 nation to approve or deny the license.

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

44 2. The office shall have the authority to charge licensees a biennial  
45 license fee. Such fee shall be based on the amount of cannabis to be  
46 cultivated, processed, distributed and/or dispensed by the licensee or  
47 the gross annual receipts of the licensee for the previous license peri-  
48 od, and any other factors deemed reasonable and appropriate by the  
49 office.

50 3. The office shall have the authority to waive or reduce fees for  
51 social and economic equity applicants.

52 § 64. Selection criteria. 1. The executive director shall develop  
53 regulations for determining whether or not an applicant should be grant-  
54 ed the privilege of an adult-use cannabis license, based on, but not  
55 limited to, the following criteria:



- 1 (a) the applicant will be able to maintain effective control against  
2 the illegal diversion of cannabis;
- 3 (b) the applicant will be able to comply with all applicable state  
4 laws and regulations;
- 5 (c) the applicant and its officers are ready, willing, and able to  
6 properly carry on the activities for which a license is sought;
- 7 (d) the applicant possesses or has the right to use sufficient land,  
8 buildings, and equipment to properly carry on the activity described in  
9 the application;
- 10 (e) the applicant qualifies as a social equity applicant or sets out a  
11 plan for benefiting communities and people disproportionately impacted by  
12 cannabis law enforcement;
- 13 (f) it is in the public interest that such license be granted, taking  
14 into consideration, but not limited to, the following criteria:
- 15 (i) that it is a privilege, and not a right, to cultivate, process,  
16 distribute, and sell cannabis;
- 17 (ii) the number, classes, and character of other licenses in proximity  
18 to the location and in the particular municipality or subdivision there-  
19 of;
- 20 (iii) evidence that all necessary licenses and permits have been  
21 obtained from the state and all other governing bodies;
- 22 (iv) effect of the grant of the license on pedestrian or vehicular  
23 traffic, and parking, in proximity to the location;
- 24 (v) the existing noise level at the location and any increase in noise  
25 level that would be generated by the proposed premises;
- 26 (vi) the ability to mitigate adverse environmental impacts, including  
27 but not limited to energy usage and carbon emissions;
- 28 (vii) the effect on the production and availability of cannabis and  
29 cannabis products; and
- 30 (viii) any other factors specified by law or regulation that are rele-  
31 vant to determine that granting a license would promote public conven-  
32 ience and advantage and the public interest of the community;
- 33 (g) the applicant and its managing officers are of good moral charac-  
34 ter and do not have an ownership or controlling interest in more  
35 licenses or permits than allowed by this chapter;
- 36 (h) the applicant has entered into a labor peace agreement with a  
37 bona-fide labor organization that is actively engaged in representing or  
38 attempting to represent the applicant's employees, and the maintenance  
39 of such a labor peace agreement shall be an ongoing material condition  
40 of licensure. In evaluating applications from entities with twenty-five  
41 or more employees, the office shall give priority to applicants that are  
42 a party to a collective bargaining agreement with a bona-fide labor  
43 organization in New York or in another state, and uses union labor to  
44 construct its licensed facility;
- 45 (i) the applicant will contribute to communities and people dispropor-  
46 tionately harmed by cannabis law enforcement and report these contrib-  
47 utions to the office;
- 48 (j) if the application is for an adult-use cultivator or processor  
49 license, the environmental impact of the facility to be licensed; and
- 50 (k) the applicant satisfies any other conditions as determined by the  
51 executive director.
- 52 2. If the executive director is not satisfied that the applicant  
53 should be issued a license, the executive director shall notify the  
54 applicant in writing of the specific reason or reasons for denial.

1 3. The executive director shall have the authority to, in consultation  
2 with the cannabis advisory board, determine the number of licenses  
3 issued pursuant to this article.

4 § 65. Limitations of licensure; duration. 1. No license of any kind  
5 may be issued to a person under the age of twenty-one years, nor shall  
6 any licensee employ anyone under the age of twenty-one years.

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

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

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

17 § 66. License renewal. 1. Each license, issued pursuant to this arti-  
18 cle, may be renewed upon application therefore by the licensee and the  
19 payment of the fee for such license as prescribed by this article. In  
20 the case of applications for renewals, the office may dispense with the  
21 requirements of such statements as it deems unnecessary in view of those  
22 contained in the application made for the original license, but in any  
23 event the submission of photographs of the licensed premises shall be  
24 dispensed with, provided the applicant for such renewal shall file a  
25 statement with the office to the effect that there has been no alter-  
26 ation of such premises since the original license was issued. The office  
27 may make such rules as it deems necessary, not inconsistent with this  
28 chapter, regarding applications for renewals of licenses and permits and  
29 the time for making the same.

30 2. Each applicant must submit to the office documentation of the  
31 racial, ethnic, and gender diversity of the applicant's employees and  
32 owners prior to a license being renewed. In addition, the office may  
33 create a social responsibility framework agreement and make the adher-  
34 ence to such agreement a conditional requirement of license renewal.

35 3. The office shall provide an application for renewal of a license  
36 issued under this article not less than ninety days prior to the expira-  
37 tion of the current license.

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

42 5. Each applicant must maintain a labor peace agreement with a bona-  
43 fide labor organization that is actively engaged in representing or  
44 attempting to represent the applicant's employees and the maintenance of  
45 such a labor peace agreement shall be an ongoing material condition of  
46 licensure. Each applicant must provide evidence of the execution of  
47 their plan for benefitting communities and people required for initial  
48 licensing pursuant to section sixty-four of this article.

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

50 1. Licenses issued pursuant to this article shall specify:

51 (a) the name and address of the licensee;

52 (b) the activities permitted by the license;

53 (c) the land, buildings and facilities that may be used for the  
54 licensed activities of the licensee;

55 (d) a unique license number issued by the office to the licensee; and

1 (e) such other information as the executive director shall deem neces-  
2 sary to assure compliance with this chapter.

3 2. Upon application of a licensee to the office, 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 execu-  
7 tive director 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 exec-  
10 utive director. The executive director may promulgate regulations allow-  
11 ing for certain types of changes in ownership without the need for prior  
12 written approval.

13 4. For purposes of this section, "substantial corporate change" shall  
14 mean:

15 (a) for a corporation, a change of eighty percent or more of the offi-  
16 cers and/or directors, or a transfer of eighty percent or more of stock  
17 of such corporation, or an existing stockholder obtaining eighty percent  
18 or more of the stock of such corporation; or

19 (b) for a limited liability company, a change of eighty percent or  
20 more of the managing members of the company, or a transfer of eighty  
21 percent or more of ownership interest in said company, or an existing  
22 member obtaining a cumulative of eighty percent or more of the ownership  
23 interest in said company.

24 § 68. Adult-use cultivator license. 1. An adult-use cultivator's  
25 license shall authorize the acquisition, possession, cultivation and  
26 sale of cannabis from the licensed premises of the adult-use cultivator  
27 by such licensee to duly licensed processors in this state. The execu-  
28 tive director may establish regulations allowing licensed adult-use  
29 cultivators to perform certain types of minimal processing without the  
30 need for an adult-use processor license.

31 2. For purposes of this section, cultivation shall include, but not be  
32 limited to, the planting, growing, cloning, harvesting, drying, curing,  
33 grading and trimming of cannabis.

34 3. A person holding an adult-use cultivator's license may apply for,  
35 and obtain, one processor's license and one distributor's license that  
36 may only be used to distribute their own cannabis and cannabis products.

37 4. A person holding an adult-use cultivator's license may not also  
38 hold a retail dispensary license pursuant to this article and no adult-  
39 use cannabis cultivator shall have a direct or indirect interest,  
40 including by stock ownership, interlocking directors, mortgage or lien,  
41 personal or real property, or any other means, in any premises licensed  
42 as an adult-use cannabis retail dispensary or in any business licensed  
43 as an adult-use cannabis retail dispensary pursuant to this article.

44 5. A person holding an adult-use cultivator's license may not hold a  
45 license to distribute cannabis under this article unless the licensed  
46 cultivator is also licensed as a processor under this article.

47 6. No person may have a direct or indirect financial or controlling  
48 interest in more than one adult-use cultivator license issued pursuant  
49 to this chapter.

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

54 2. For purposes of this section, processing shall include, but not be  
55 limited to, blending, extracting, infusing, packaging, labeling, brand-

1 ing and otherwise making or preparing cannabis products. Processing  
2 shall not include the cultivation of cannabis.

3 3. No processor shall be engaged in any other business on the premises  
4 to be licensed; except that nothing contained in this chapter shall  
5 prevent a cannabis cultivator, cannabis processor, and cannabis distrib-  
6 utor from operating on the same premises and from a person holding all  
7 three licenses.

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

10 5. No adult-use cannabis processor shall have a direct or indirect  
11 interest, including by stock ownership, interlocking directors, mortgage  
12 or lien, personal or real property, or any other means, in any premises  
13 licensed as an adult-use cannabis retail dispensary or in any business  
14 licensed as an adult-use cannabis retail dispensary pursuant to this  
15 article.

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

21 2. To be licensed as an adult-use cooperative, the cooperative must:

22 (i) be comprised of residents of the state of New York as a limited  
23 liability company or limited liability partnership under the laws of the  
24 state, or an appropriate business structure as determined by the execu-  
25 tive director;

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

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

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

34 (v) the cooperative must operate according to the seven cooperative  
35 principles published by the International Cooperative Alliance in nine-  
36 teen hundred ninety-five.

37 3. No natural person shall be a member of more than one adult-use  
38 cooperative licensed pursuant to this section.

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

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

48 6. The executive director shall promulgate regulations governing coop-  
49 erative licenses, including, but not limited to, the establishment of  
50 canopy limits on the size and scope of cooperative licensees, and other  
51 measures designed to incentivize the use and licensure of cooperatives.

52 § 71. Adult-use distributor license. 1. A distributor's license shall  
53 authorize the acquisition, possession, distribution and sale of cannabis  
54 from the licensed premises of a licensed adult-use processor, microbusi-  
55 ness or registered organization authorized pursuant to this chapter to  
56 sell adult-use cannabis, to duly licensed retail dispensaries.

1 2. No distributor shall have a direct or indirect economic interest in  
2 any adult-use retail dispensary licensed pursuant to this article, or in  
3 any registered organization registered pursuant to article three of this  
4 chapter. This restriction shall not prohibit a registered organization  
5 authorized pursuant to section thirty-nine of this chapter, from being  
6 granted licensure by the office to distribute adult-use cannabis  
7 products cultivated and processed by the registered organization only to  
8 the registered organization's own licensed adult-use retail dispensar-  
9 ies.

10 3. Nothing in subdivision two of this section shall prevent a distrib-  
11 utor from charging an appropriate fee for the distribution of cannabis,  
12 including based on the volume of cannabis distributed.

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

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

20 3. No person holding a retail dispensary license may also hold an  
21 adult-use cultivation, processor, microbusiness, cooperative or distrib-  
22 utor license pursuant to this article.

23 4. No retail license shall be granted for any premises, unless the  
24 applicant shall be the owner thereof, or shall be able to demonstrate  
25 possession of the premises within thirty days of initial approval of the  
26 license through a lease, management agreement or other agreement giving  
27 the applicant control over the premises, in writing, for a term not less  
28 than the license period.

29 5. With the exception of microbusiness licensees, no premises shall be  
30 licensed to sell cannabis products, unless said premises shall be  
31 located in a store, the principal entrance to which shall be from the  
32 street level and located on a public thoroughfare in premises which may  
33 be occupied, operated or conducted for business, trade or industry or on  
34 an arcade or sub-surface thoroughfare leading to a railroad terminal.

35 6. No cannabis retail license shall be granted for any premises within  
36 two hundred feet of a school grounds as such term is defined in the  
37 education law.

38 § 73. Microbusiness license. 1. A microbusiness license shall author-  
39 ize the limited cultivation, processing, distribution and dispensing of  
40 adult use cannabis and cannabis products.

41 2. A microbusiness licensee may not hold interest in any other license  
42 and may only distribute its own cannabis and cannabis products to  
43 dispensaries.

44 3. The size and scope of a microbusiness shall be determined by regu-  
45 lation by the executive director in consultation with the cannabis advi-  
46 sory board.

47 § 74. Notification to municipalities of adult-use retail dispensary.  
48 1. Not less than thirty days nor more than two hundred seventy days  
49 before filing an application for licensure as an adult-use cannabis  
50 retail dispensary, an applicant shall notify the municipality in which  
51 the premises is located of such applicant's intent to file such an  
52 application.

53 2. Such notification shall be made to the clerk of the village, town  
54 or city, as the case may be, wherein the premises is located. For  
55 purposes of this section:

1 (a) notification need only be given to the clerk of a village when the  
2 premises is located within the boundaries of the village; and

3 (b) in the city of New York, the community board established pursuant  
4 to section twenty-eight hundred of the New York city charter with juris-  
5 diction over the area in which the premises is located shall be consid-  
6 ered the appropriate public body to which notification shall be given.

7 3. Such notification shall be made in such form as shall be prescribed  
8 by the rules of the office.

9 4. A municipality may express an opinion for or against the granting  
10 of such application. Any such opinion shall be deemed part of the record  
11 upon which the office makes its determination to grant or deny the  
12 application.

13 5. Such notification shall be made by: (a) certified mail, return  
14 receipt requested; (b) overnight delivery service with proof of mailing;  
15 or (c) personal service upon the offices of the clerk or community  
16 board.

17 6. The office shall require such notification to be on a standardized  
18 form that can be obtained on the internet or from the office and such  
19 notification to include:

20 (a) the trade name or "doing business as" name, if any, of the estab-  
21 lishment;

22 (b) the full name of the applicant;

23 (c) the street address of the establishment, including the floor  
24 location or room number, if applicable;

25 (d) the mailing address of the establishment, if different than the  
26 street address;

27 (e) the name, address and telephone number of the attorney or repre-  
28 sentative of the applicant, if any;

29 (f) a statement indicating whether the application is for:

30 (i) a new establishment;

31 (ii) a transfer of an existing licensed business;

32 (iii) a renewal of an existing license; or

33 (iv) an alteration of an existing licensed premises;

34 (g) if the establishment is a transfer or previously licensed prem-  
35 ises, the name of the old establishment and such establishment's regis-  
36 tration or license number;

37 (h) in the case of a renewal or alteration application, the registra-  
38 tion or license number of the applicant; and

39 (i) the type of license.

40 § 75. On-site consumption license; provisions governing on-site  
41 consumption licenses. 1. No licensed adult-use cannabis retail dispen-  
42 sary shall be granted a cannabis on-site consumption license for any  
43 premises, unless the applicant shall be the owner thereof, or shall be  
44 in possession of said premises under a lease, in writing, for a term not  
45 less than the license period except, however, that such license may  
46 thereafter be renewed without the requirement of a lease as provided in  
47 this section. This subdivision shall not apply to premises leased from  
48 government agencies; provided, however, that the appropriate administra-  
49 tor of such government agency provides some form of written documenta-  
50 tion regarding the terms of occupancy under which the applicant is leas-  
51 ing said premises from the government agency for presentation to the  
52 office at the time of the license application. Such documentation shall  
53 include the terms of occupancy between the applicant and the government  
54 agency, including, but not limited to, any short-term leasing agreements  
55 or written occupancy agreements.

1 2. No adult-use cannabis retail dispensary shall be granted a cannabis  
2 on-site consumption license for any premises within two hundred feet of  
3 school grounds as such term is defined in the education law.

4 3. The office may consider any or all of the following in determining  
5 whether public convenience and advantage and the public interest will be  
6 promoted by the granting of a license for an on-site cannabis consump-  
7 tion at a particular location:

8 (a) that it is a privilege, and not a right, to cultivate, process,  
9 distribute, and sell cannabis;

10 (b) the number, classes, and character of other licenses in proximity  
11 to the location and in the particular municipality or subdivision there-  
12 of;

13 (c) evidence that all necessary licenses and permits have been  
14 obtained from the state and all other governing bodies;

15 (d) whether there is a demonstrated need for spaces to consume canna-  
16 bis;

17 (e) effect of the grant of the license on pedestrian or vehicular  
18 traffic, and parking, in proximity to the location;

19 (f) the existing noise level at the location and any increase in noise  
20 level that would be generated by the proposed premises; and

21 (g) any other factors specified by law or regulation that are relevant  
22 to determine that granting a license would promote public convenience  
23 and advantage and the public interest of the community.

24 4. If the office shall disapprove an application for an on-site  
25 consumption license, it shall state and file in its offices the reasons  
26 therefor and shall notify the applicant thereof. Such applicant may  
27 thereupon apply to the office for a review of such action in a manner to  
28 be prescribed by the rules of the office.

29 5. No adult-use cannabis on-site consumption licensee shall keep upon  
30 the licensed premises any adult-use cannabis products except those  
31 purchased from a licensed distributor, adult-use cooperative, or micro-  
32 business authorized to sell adult-use cannabis, and only in containers  
33 approved by the office. Such containers shall have affixed thereto such  
34 labels as may be required by the rules of the office. No cannabis  
35 retail licensee for on-site consumption shall reuse, refill, tamper  
36 with, adulterate, dilute or fortify the contents of any container of  
37 cannabis products as received from the manufacturer or distributor.

38 6. No cannabis on-site consumption licensee shall sell, deliver or  
39 give away, or cause or permit or procure to be sold, delivered or given  
40 away any cannabis for consumption on the premises where sold in a  
41 container or package containing more than one gram of cannabis flower or  
42 one serving of cannabis infused product.

43 7. Except where a permit to do so is obtained pursuant to section  
44 405.10 of the penal law, no cannabis on-site consumption licensee shall  
45 suffer, permit, or promote an event on its premises wherein any person  
46 shall use, explode, or cause to explode, any fireworks or other pyro-  
47 technics in a building as defined in paragraph e of subdivision one of  
48 section 405.10 of the penal law, that is covered by such license or  
49 possess such fireworks or pyrotechnics for such purpose. In addition to  
50 any other penalty provided by law, a violation of this subdivision shall  
51 constitute an adequate ground for instituting a proceeding to suspend,  
52 cancel, or revoke the license of the violator in accordance with the  
53 applicable procedures specified in this chapter; provided however, if  
54 more than one licensee is participating in a single event, upon approval  
55 by the office, only one licensee must obtain such permit.

1 8. No premises licensed to sell adult-use cannabis for on-site  
2 consumption under this chapter shall be permitted to have any opening or  
3 means of entrance or passageway for persons or things between the  
4 licensed premises and any other room or place in the building containing  
5 the licensed premises, or any adjoining or abutting premises, unless  
6 ingress and egress is restricted by an employee, agent of the licensee,  
7 or other method approved by the office of controlling access to the  
8 facility.

9 9. Each cannabis on-site consumption licensee shall keep and maintain  
10 upon the licensed premises, adequate records of all transactions involv-  
11 ing the business transacted by such licensee which shall show the amount  
12 of cannabis products, in an applicable metric measurement, purchased by  
13 such licensee together with the names, license numbers and places of  
14 business of the persons from whom the same were purchased, the amount  
15 involved in such purchases, as well as the sales of cannabis products  
16 made by such licensee. The office is hereby authorized to promulgate  
17 rules and regulations permitting an on-site licensee operating two or  
18 more premises separately licensed to sell cannabis products for on-site  
19 consumption to inaugurate or retain in this state methods or practices  
20 of centralized accounting, bookkeeping, control records, reporting,  
21 billing, invoicing or payment respecting purchases, sales or deliveries  
22 of cannabis products, or methods and practices of centralized receipt or  
23 storage of cannabis products within this state without segregation or  
24 earmarking for any such separately licensed premises, wherever such  
25 methods and practices assure the availability, at such licensee's  
26 central or main office in this state, of data reasonably needed for the  
27 enforcement of this chapter. Such records shall be available for  
28 inspection by any authorized representative of the office.

29 10. All retail licensed premises shall be subject to inspection by any  
30 peace officer, acting pursuant to his or her special duties, or police  
31 officer and by the duly authorized representatives of the office, during  
32 the hours when the said premises are open for the transaction of busi-  
33 ness.

34 11. A cannabis on-site consumption licensee shall not provide cannabis  
35 products to any person under the age of twenty-one.

36 § 76. Record keeping and tracking. 1. The executive director shall, by  
37 regulation, require each licensee pursuant to this article to adopt and  
38 maintain security, tracking, record keeping, record retention and  
39 surveillance systems, relating to all cannabis at every stage of acquir-  
40 ing, possession, manufacture, sale, delivery, transporting, testing or  
41 distributing by the licensee, subject to regulations of the executive  
42 director.

43 2. Every licensee shall keep and maintain upon the licensed premises  
44 adequate books and records of all transactions involving the licensee  
45 and sale of its products, which shall include, but is not limited to,  
46 all information required by any rules promulgated by the office.

47 3. Each sale shall be recorded separately on a numbered invoice, which  
48 shall have printed thereon the number, the name of the licensee, the  
49 address of the licensed premises, and the current license number.  
50 Licensed producers shall deliver to the licensed distributor a true  
51 duplicate invoice stating the name and address of the purchaser, the  
52 quantity purchased, description and the price of the product, and a  
53 true, accurate and complete statement of the terms and conditions on  
54 which such sale is made.



1 4. Such books, records and invoices shall be kept for a period of five  
2 years and shall be available for inspection by any authorized represen-  
3 tative of the office.

4 5. Each adult-use cannabis retail dispensary, microbusiness, and  
5 on-site consumption licensee shall keep and maintain upon the licensed  
6 premises, adequate records of all transactions involving the business  
7 transacted by such licensee which shall show the amount of cannabis, in  
8 weight, purchased by such licensee together with the names, license  
9 numbers and places of business of the persons from whom the same were  
10 purchased, the amount involved in such purchases, as well as the sales  
11 of cannabis made by such licensee.

12 § 77. Inspections and ongoing requirements. All licensed or permitted  
13 premises, regardless of the type of premises, shall be subject to  
14 inspection by the office, by the duly authorized representatives of the  
15 office, by any peace officer acting pursuant to his or her special  
16 duties, or by a police officer, during the hours when the said premises  
17 are open for the transaction of business. The office shall make reason-  
18 able accommodations so that ordinary business is not interrupted and  
19 safety and security procedures are not compromised by the inspection. A  
20 person who holds a license or permit must make himself or herself, or an  
21 agent thereof, available and present for any inspection required by the  
22 office. Such inspection may include, but is not limited to, ensuring  
23 compliance by the licensee or permittee with all other applicable build-  
24 ing codes, fire, health, safety, and governmental regulations, including  
25 at the municipal, county, and state level.

26 § 78. Adult-use cultivators, processors or distributors not to be  
27 interested in retail dispensaries. 1. It shall be unlawful for a culti-  
28 vator, processor, cooperative or distributor licensed under this article  
29 to:

30 (a) be interested directly or indirectly in any premises where any  
31 cannabis product is sold at retail; or in any business devoted wholly or  
32 partially to the sale of any cannabis product at retail by stock owner-  
33 ship, interlocking directors, mortgage or lien or any personal or real  
34 property, or by any other means.

35 (b) make, or cause to be made, any loan to any person engaged in the  
36 manufacture or sale of any cannabis product at wholesale or retail.

37 (c) make any gift or render any service of any kind whatsoever,  
38 directly or indirectly, to any person licensed under this chapter which  
39 in the judgment of the office may tend to influence such licensee to  
40 purchase the product of such cultivator or processor or distributor.

41 (d) enter into any contract with any retail licensee whereby such  
42 licensee agrees to confine his sales to cannabis products manufactured  
43 or sold by one or more such cultivator or processors or distributors.  
44 Any such contract shall be void and subject the licenses of all parties  
45 concerned to revocation for cause.

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

52 3. The office shall have the power to create rules and regulations in  
53 regard to this section.

54 § 79. Packaging and labeling of adult-use cannabis products. 1. The  
55 office is hereby authorized to promulgate rules and regulations govern-  
56 ing the advertising, branding, marketing, packaging and labeling of

1 cannabis products, sold or possessed for sale in New York state, includ-  
2 ing rules pertaining to the accuracy of information and rules restrict-  
3 ing marketing and advertising to youth.

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

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

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

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

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

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

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

23 5. The packaging, sale, marketing, branding, advertising, labeling or  
24 possession by any licensee of any cannabis product not labeled or  
25 offered in conformity with rules and regulations promulgated in accord-  
26 ance with this section shall be grounds for the imposition of a fine,  
27 and/or the suspension, revocation or cancellation of a license.

28 § 80. Laboratory testing. 1. Every processor of adult-use cannabis  
29 shall contract with an independent laboratory permitted pursuant to  
30 section one hundred twenty-nine of this chapter, to test the cannabis  
31 products it produces pursuant to rules and regulations prescribed by the  
32 office. The executive director may assign an approved testing laborato-  
33 ry, which the processor of adult-use cannabis must use.

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

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

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

45 5. An owner of a cannabis laboratory testing permit shall not hold a  
46 license in any other category within this article and shall not own or  
47 have ownership interest in a registered organization registered pursuant  
48 to article three of this chapter.

49 6. The office shall have the authority to require any licensee under  
50 this article to submit cannabis or cannabis products to one or more  
51 independent laboratories for testing.

52 § 81. Provisions governing the cultivation and processing of adult-use  
53 cannabis. 1. Cultivation of cannabis must not be visible from a public  
54 place by normal unaided vision.

55 2. No cultivator or processor of adult-use cannabis shall sell, or  
56 agree to sell or deliver in the state any cannabis products, as the case

1 may be, except in sealed containers containing quantities in accordance  
2 with size standards pursuant to rules adopted by the office. Such  
3 containers shall have affixed thereto such labels as may be required by  
4 the rules of the office.

5 3. No cultivator or processor of adult-use cannabis shall furnish or  
6 cause to be furnished to any licensee, any exterior or interior sign,  
7 printed, painted, electric or otherwise, except as authorized by the  
8 office. The office may make such rules as it deems necessary to carry  
9 out the purpose and intent of this subdivision.

10 4. Cultivators of adult-use cannabis shall comply with plant culti-  
11 vation regulations, standards, and guidelines issued by the office, in  
12 consultation with the department of environmental conservation. Such  
13 regulations, standards, and guidelines shall be guided by sustainable  
14 farming principles and practices such as organic, regenerative, and  
15 integrated pest management models, and shall restrict whenever possible,  
16 the use of pesticides, herbicides, and fungicides to those which are  
17 botanical and/or biological.

18 5. No cultivator or processor of adult-use cannabis, including an  
19 adult-use cannabis cooperative or microbusiness may offer any incentive,  
20 payment or other benefit to a licensed cannabis retail dispensary in  
21 return for carrying the cultivator, processor, cooperative or microbusi-  
22 ness products, or preferential shelf placement.

23 6. All cannabis products shall be processed in accordance with good  
24 manufacturing processes, pursuant to Part 111 of Title 21 of the Code of  
25 Federal Regulations, as may be modified by the executive director in  
26 regulation.

27 7. No processor of adult-use cannabis shall produce any product which,  
28 in the discretion of the office, is designed to appeal to anyone under  
29 the age of twenty-one years.

30 8. The use or integration of alcohol or nicotine in cannabis products  
31 is strictly prohibited.

32 § 82. Provisions governing the distribution of adult-use cannabis. 1.  
33 No distributor shall sell, or agree to sell or deliver any cannabis  
34 products, as the case may be, in any container, except in a sealed pack-  
35 age. Such containers shall have affixed thereto such labels as may be  
36 required by the rules of the office.

37 2. No distributor shall deliver any cannabis products, except in vehi-  
38 cles owned and operated by such distributor, or hired and operated by  
39 such distributor from a trucking or transportation company registered  
40 with the office, and shall only make deliveries at the licensed premises  
41 of the purchaser.

42 3. Each distributor shall keep and maintain upon the licensed prem-  
43 ises, adequate books and records of all transactions involving the busi-  
44 ness transacted by such distributor, which shall show the amount of  
45 cannabis products purchased by such distributor together with the names,  
46 license numbers and places of business of the persons from whom the same  
47 was purchased and the amount involved in such purchases, as well as the  
48 amount of cannabis products sold by such distributor together with the  
49 names, addresses, and license numbers of such purchasers. Each sale  
50 shall be recorded separately on a numbered invoice, which shall have  
51 printed thereon the number, the name of the licensee, the address of the  
52 licensed premises, and the current license number. Such distributor  
53 shall deliver to the purchaser a true duplicate invoice stating the name  
54 and address of the purchaser, the quantity of cannabis products,  
55 description by brands and the price of such cannabis products, and a  
56 true, accurate and complete statement of the terms and conditions on



1 which such sale is made. Such books, records and invoices shall be kept  
2 for a period of five years and shall be available for inspection by any  
3 authorized representative of the office.

4 4. No distributor shall furnish or cause to be furnished to any licen-  
5 see, any exterior or interior sign, printed, painted, electric or other-  
6 wise, unless authorized by the office.

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

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

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

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

28 2. No cannabis retail licensee shall sell alcoholic beverages, nor  
29 have or possess a license or permit to sell alcoholic beverages, on the  
30 same premises where cannabis products are sold.

31 3. No sign of any kind printed, painted or electric, advertising any  
32 brand shall be permitted on the exterior or interior of such premises,  
33 except by permission of the office.

34 4. No cannabis retail licensee shall sell or deliver any cannabis  
35 products to any person with knowledge of, or with reasonable cause to  
36 believe, that the person to whom such cannabis products are being sold,  
37 has acquired the same for the purpose of selling or giving them away in  
38 violation of the provisions of this chapter or in violation of the rules  
39 and regulations of the office.

40 5. All premises licensed under this section shall be subject to  
41 inspection by any peace officer described in subdivision four of section  
42 2.10 of the criminal procedure law acting pursuant to his or her special  
43 duties, or police officer or any duly authorized representative of the  
44 office, during the hours when the said premises are open for the trans-  
45 action of business.

46 6. No cannabis retail licensee shall be interested, directly or indi-  
47 rectly, in any cultivator, processor, distributor or microbusiness oper-  
48 ator licensed pursuant to this article, by stock ownership, interlocking  
49 directors, mortgage or lien on any personal or real property or by any  
50 other means. Any lien, mortgage or other interest or estate, however,  
51 now held by such retailer on or in the personal or real property of such  
52 manufacturer or distributor, which mortgage, lien, interest or estate  
53 was acquired on or before December thirty-first, two thousand eighteen,  
54 shall not be included within the provisions of this subdivision;  
55 provided, however, the burden of establishing the time of the accrual of  
56 the interest comprehended by this subdivision, shall be upon the person

1 who claims to be entitled to the protection and exemption afforded here-  
2 by.

3 7. No cannabis retail licensee shall make or cause to be made any loan  
4 to any person engaged in the cultivation, processing or distribution of  
5 cannabis pursuant to this article.

6 8. Each cannabis retail licensee shall designate the price of each  
7 item of cannabis by attaching to or otherwise displaying immediately  
8 adjacent to each such item displayed in the interior of the licensed  
9 premises where sales are made a price tag, sign or placard setting forth  
10 the price at which each such item is offered for sale therein.

11 9. No person licensed to sell cannabis products at retail, shall allow  
12 or permit any gambling, or offer any gambling on the licensed premises,  
13 or allow or permit illicit drug activity on the licensed premises. The  
14 use of the licensed premises or any part thereof for the sale of lottery  
15 tickets, when duly authorized and lawfully conducted thereon, shall not  
16 constitute gambling within the meaning of this subdivision.

17 10. If an employee of a cannabis retail licensee suspects that a  
18 cannabis consumer may be abusing cannabis, such an employee shall  
19 encourage such cannabis consumer to seek help from a substance use  
20 disorder program or harm reduction services. Cannabis retail licensees  
21 shall develop standard operating procedures and written materials for  
22 employees to utilize when consulting consumers for purposes of this  
23 subdivision.

24 11. The executive director is authorized to promulgate regulations  
25 governing licensed adult-use dispensing facilities, including but not  
26 limited to, the hours of operation, size and location of the licensed  
27 facility, potency and types of products offered and establishing a mini-  
28 mum margin for which a retail dispensary must markup a cannabis product  
29 or products before selling to a cannabis consumer. Any adult-use canna-  
30 bis product sold by a retail dispensary for less than the minimum markup  
31 allowed in regulation, shall be unlawful.

32 § 84. Adult-use cannabis advertising. 1. The office is hereby author-  
33 ized to promulgate rules and regulations governing the advertising and  
34 marketing of licensed cannabis and any cannabis products or services.

35 2. The office shall promulgate explicit rules prohibiting advertising  
36 that:

- 37 (a) is false, deceptive, or misleading;  
38 (b) promotes overconsumption;  
39 (c) depicts consumption by children or other minors;  
40 (d) is designed in any way to appeal to children or other minors;  
41 (e) is within two hundred feet of the perimeter of a school grounds,  
42 playground, child care center, public park, or library;  
43 (f) is within two hundred feet of school grounds as such term is  
44 defined in section 220.00 of the penal law;  
45 (g) is in public transit vehicles and stations;  
46 (h) is in the form of an unsolicited internet pop-up;  
47 (i) is on publicly owned or operated property; or  
48 (j) makes medical claims or promotes adult-use cannabis for a medical  
49 or wellness purpose.

50 3. The office shall promulgate explicit rules prohibiting all market-  
51 ing strategies and implementation including, but not limited to, brand-  
52 ing, packaging, labeling, location of cannabis retailers, and advertise-  
53 ments that are designed to:

- 54 (a) appeal to persons less than twenty-one years of age; or  
55 (b) disseminate false or misleading information to customers.

56 4. The office shall promulgate explicit rules requiring that:

1 (a) all advertisements and marketing accurately and legibly identify  
2 the licensee or other business responsible for its content; and

3 (b) any broadcast, cable, radio, print and digital communications  
4 advertisements only be placed where the audience is reasonably expected  
5 to be twenty-one years of age or older, as determined by reliable,  
6 up-to-date audience composition data.

7 § 85. Social and economic equity, minority and women-owned businesses,  
8 and disadvantaged farmers; incubator program. 1. The office shall  
9 implement a social and economic equity plan and actively promote appli-  
10 cants from communities disproportionately impacted by cannabis prohibi-  
11 tion, and promote racial, ethnic, and gender diversity when issuing  
12 licenses for adult-use cannabis related activities, including by prior-  
13 itizing consideration of applications by applicants who are from commu-  
14 nities disproportionately impacted by the enforcement of cannabis prohi-  
15 bition or who qualify as a minority or women-owned business, or  
16 disadvantaged farmers. Such qualifications shall be determined by the  
17 office in regulation.

18 2. The office shall create a social and economic equity plan to  
19 promote diversity in ownership and employment, and opportunities for  
20 social and economic equity in the adult-use cannabis industry and ensure  
21 inclusion of:

22 (a) individuals from communities disproportionately impacted by the  
23 enforcement of cannabis prohibition;

24 (b) minority-owned businesses;

25 (c) women-owned businesses;

26 (d) minority and women-owned businesses, as defined in paragraph (d)  
27 of subdivision five of this section; and

28 (e) disadvantaged farmers, as defined in subdivision five of this  
29 section.

30 3. The social and economic equity plan shall consider additional  
31 criteria in its licensing determinations. Under the social and economic  
32 equity plan, extra weight shall be given to applications that demon-  
33 strate that an applicant:

34 (a) is a member of a community disproportionately impacted by the  
35 enforcement of cannabis prohibition;

36 (b) has an income lower than eighty percent of the median income of  
37 the county in which the applicant resides; and

38 (c) was convicted of a cannabis-related offense prior to the effective  
39 date of this chapter, or had a parent, guardian, child, spouse, or  
40 dependent, or was a dependent of an individual who, prior to the effec-  
41 tive date of this chapter, was convicted of a cannabis-related offense.

42 4. The office shall also create an incubator program to provide direct  
43 support to social and economic equity applicants to achieve and upon  
44 having been granted licenses. The program shall provide direct support  
45 in the form of counseling services, education, small business coaching,  
46 and compliance assistance.

47 5. For the purposes of this section, the following definitions shall  
48 apply:

49 (a) "minority-owned business" shall mean a business enterprise,  
50 including a sole proprietorship, partnership, limited liability company  
51 or corporation that is:

52 (i) at least fifty-one percent owned by one or more minority group  
53 members;

54 (ii) an enterprise in which such minority ownership is real, substan-  
55 tial and continuing;

1 (iii) an enterprise in which such minority ownership has and exercises  
2 the authority to control independently the day-to-day business decisions  
3 of the enterprise;

4 (iv) an enterprise authorized to do business in this state and inde-  
5 pendently owned and operated; and

6 (v) an enterprise that is a small business.

7 (b) "minority group member" shall mean a United States citizen or  
8 permanent resident alien who is and can demonstrate membership in one of  
9 the following groups:

10 (i) black persons having origins in any of the black African racial  
11 groups;

12 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,  
13 Central or South American of either Indian or Hispanic origin, regard-  
14 less of race;

15 (iii) Native American or Alaskan native persons having origins in any  
16 of the original peoples of North America; or

17 (iv) Asian and Pacific Islander persons having origins in any of the  
18 far east countries, south east Asia, the Indian subcontinent or the  
19 Pacific islands.

20 (c) "women-owned business" shall mean a business enterprise, including  
21 a sole proprietorship, partnership, limited liability company or corpo-  
22 ration that is:

23 (i) at least fifty-one percent owned by one or more United States  
24 citizens or permanent resident aliens who are women;

25 (ii) an enterprise in which the ownership interest of such women is  
26 real, substantial and continuing;

27 (iii) an enterprise in which such women ownership has and exercises  
28 the authority to control independently the day-to-day business decisions  
29 of the enterprise;

30 (iv) an enterprise authorized to do business in this state and inde-  
31 pendently owned and operated; and

32 (v) an enterprise that is a small business.

33 (d) a firm owned by a minority group member who is also a woman may be  
34 defined as a minority-owned business, a women-owned business, or both.

35 (e) "disadvantaged farmer" shall mean a New York state resident or  
36 business enterprise, including a sole proprietorship, partnership,  
37 limited liability company or corporation, that has reported at least  
38 two-thirds of its federal gross income as income from farming, in at  
39 least one of the past five preceding tax years, and who:

40 (i) farms in a county that has greater than ten percent rate of pover-  
41 ty according to the latest U.S. Census Bureau's American Communities  
42 Survey;

43 (ii) has been disproportionately impacted by low commodity prices or  
44 faces the loss of farmland through development or suburban sprawl; and

45 (iii) meets any other qualifications as defined in regulation by the  
46 office.

47 (f) "communities disproportionately impacted" shall mean, but not be  
48 limited to, a history of arrests, convictions, and other law enforcement  
49 practices in a certain geographic area, such as, but not limited to,  
50 precincts, zip codes, neighborhoods, and political subdivisions,  
51 reflecting a disparate enforcement of cannabis prohibition during a  
52 certain time period, when compared to the rest of the state. The office  
53 shall, in consultation with the cannabis advisory board, issue guide-  
54 lines to determine how to assess which communities have been dispropor-  
55 tionately impacted and how to assess if someone is a member of a commu-  
56 nity disproportionately impacted.

1 6. The office shall actively promote applicants that foster racial,  
2 ethnic, and gender diversity in their workforce.

3 7. Licenses issued under the social and economic equity plan shall not  
4 be transferable except to qualified social and economic equity appli-  
5 cants and only upon prior written approval of the executive director.

6 8. The office shall collect demographic data on owners and employees  
7 in the adult-use cannabis industry and shall annually publish such data.

8 § 86. Regulations. The executive director shall promulgate regu-  
9 lations in consultation with the cannabis advisory board to implement  
10 this article.

11 ARTICLE 5  
12 HEMP EXTRACT

13 Section 90. Definitions.

- 14 91. Rulemaking authority.
- 15 92. Cannabinoid related hemp extract licensing.
- 16 93. Cannabinoid grower licenses.
- 17 94. Cannabinoid manufacturer license.
- 18 95. Cannabinoid extractor license.
- 19 96. Cannabinoid license applications.
- 20 97. Information to be requested in applications for licenses.
- 21 98. Fees.
- 22 99. Selection criteria.
- 23 100. Limitations of licensure; duration.
- 24 101. License renewal.
- 25 102. Form of license.
- 26 103. Amendments to license and duty to update information  
27 submitted for licensing.
- 28 104. Record keeping and tracking.
- 29 105. Inspections and ongoing requirements.
- 30 106. Packaging and labeling of hemp extract.
- 31 107. Provisions governing the growing, manufacturing and  
32 extracting of hemp extract.
- 33 108. Laboratory testing.
- 34 109. Advertising.
- 35 110. Research.
- 36 111. Regulations.
- 37 112. Cannabinoid permit.
- 38 113. New York hemp product.
- 39 114. Penalties and violations of this article.
- 40 115. Hemp workgroup.
- 41 116. Prohibitions.

42 § 90. Definitions. Wherever used in this article unless otherwise  
43 expressly stated or unless the context or subject matter requires a  
44 different meaning, the following terms shall have the representative  
45 meanings hereinafter set forth or indicated:

46 1. "Applicant" means a for-profit entity or not-for-profit corporation  
47 and includes board members who submit an application to become a licen-  
48 see.

49 2. "Hemp extract" means any product made or derived from industrial  
50 hemp, including the seeds thereof and all derivatives whether growing or  
51 not, with a delta-9-tetrahydrocannabinol concentration of not more than  
52 an amount of the plant Cannabis sativa L. and any part of such plant,  
53 including the seeds thereof and all derivatives, extracts, cannabinoids,  
54 isomers, acids, salts, and salts of isomers, whether growing or not,  
55 with a delta-9-tetrahydrocannabinol concentration of not more than an



1 amount determined by the office in regulation, used or intended for  
2 human or animal consumption or use for its cannabinoid content, as  
3 determined by the office in regulation. Hemp extract excludes industrial  
4 hemp used or intended exclusively for an industrial purpose and those  
5 food and/or food ingredients that are generally recognized as safe by  
6 the department of agriculture and markets, and shall not be regulated as  
7 hemp extract within the meaning of this article.

8 3. "Cannabinoid grower" means a person licensed by the office, and in  
9 compliance with this article to acquire, possess, cultivate, and sell  
10 hemp extract for its cannabinoid content.

11 4. "Cannabinoid manufacturer" means a person licensed by the office to  
12 acquire, possess, and manufacture hemp extract from licensed cannabinoid  
13 growers or cannabinoid extractors for the manufacture and sale of hemp  
14 extract products marketed for cannabinoid content and used or intended  
15 for human or animal consumption or use.

16 5. "Cannabinoid extractor" means a person licensed by the office to  
17 acquire, possess, extract and manufacture hemp extract from licensed  
18 cannabinoid growers for the manufacture and sale of hemp extract  
19 products marketed for cannabinoid content and used or intended for human  
20 or animal consumption or use.

21 6. "License" means a license issued pursuant to this article.

22 7. "Industrial hemp" means the plant *Cannabis sativa* L. and any part  
23 of such plant, including the seeds thereof and all derivatives,  
24 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
25 whether growing or not, with a delta-9-tetrahydrocannabinol concen-  
26 tration of not more than 0.3 percent on a dry weight basis.

27 § 91. Rulemaking authority. 1. The office shall perform such acts,  
28 prescribe such forms and propose such rules, regulations and orders as  
29 it may deem necessary or proper to fully effectuate the provisions of  
30 this article.

31 2. In consultation with the cannabis advisory board and the hemp work-  
32 group, the office shall have the power to promulgate any and all neces-  
33 sary rules and regulations governing the production, processing, trans-  
34 portation, distribution, and sale of hemp extract, including but not  
35 limited to the licensing of cannabinoid growers, manufacturers, extrac-  
36 tors and retailers, including, but not limited to:

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

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

41 (c) limitations on the number of licenses to be awarded;

42 (d) the books and records to be created and maintained by licensees,  
43 and permittees, including the reports to be made thereon to the office,  
44 and inspection of any and all books and records maintained by any licen-  
45 see, or permittee, and on the premises of any licensee or permittee;

46 (e) methods of producing, processing, and packaging hemp extract;  
47 conditions of sanitation, and standards of ingredients, quality, and  
48 identity of hemp extract products cultivated, processed, packaged, or  
49 sold by licensees; and

50 (f) hearing procedures and additional causes for cancellation, revoca-  
51 tion, and/or civil penalties against any person licensed, or permitted  
52 by the office.

53 3. The office, in consultation with the department of environmental  
54 conservation and the New York state energy research and development  
55 agency, shall promulgate necessary rules and regulations governing the

1 safe production of hemp extract, including environmental and energy  
2 standards.

3 § 92. Cannabinoid related hemp extract licensing. 1. Persons growing,  
4 processing, extracting, and/or manufacturing hemp extract or producing  
5 hemp extract products distributed, sold or marketed for cannabinoid  
6 content and used or intended for human or animal consumption or use,  
7 shall be required to obtain the following license or licenses from the  
8 office, depending upon the operation:

- 9 (a) cannabinoid grower license;
- 10 (b) cannabinoid manufacturer license;
- 11 (c) cannabinoid extractor license.

12 2. Notwithstanding subdivision one of this section, those persons  
13 growing, processing or manufacturing food or food ingredients from  
14 industrial hemp pursuant to article twenty-nine of the agriculture and  
15 markets law which food or food ingredients are generally recognized as  
16 safe, shall be subject to regulation and/or licensing by the office.

17 § 93. Cannabinoid grower licenses. 1. A cannabinoid grower's license  
18 authorizes the acquisition, possession, cultivation and sale of hemp  
19 extract grown or used for its cannabinoid content on the licensed prem-  
20 ises of the grower.

21 2. A person holding a cannabinoid grower's license shall not sell hemp  
22 extract products marketed, distributed or sold for its cannabinoid  
23 content and intended for human consumption or use without also being  
24 licensed as a manufacturer or extractor pursuant to this article or  
25 otherwise permitted pursuant to section ninety-two of this article.

26 3. Persons growing industrial hemp pursuant to article twenty-nine of  
27 the agriculture and markets law are not authorized to and shall not sell  
28 hemp extract for human or animal consumption or use, other than as food  
29 or a food ingredient that has been generally recognized as safe in  
30 accordance with the office and determined by the state to be safe for  
31 human consumption as food or a food ingredient without also being  
32 licensed as a manufacturer or extractor pursuant to this article or  
33 otherwise permitted pursuant to section ninety-two of this article.

34 4. A person authorized under article twenty-nine of the agriculture  
35 and markets law as an industrial hemp grower may apply for a cannabinoid  
36 grower license provided he or she can demonstrate to the office that its  
37 cultivation of industrial hemp meets all the requirements for hemp  
38 extract cultivated under a cannabinoid grower license.

39 § 94. Cannabinoid manufacturer license. 1. A cannabinoid manufacturer  
40 license authorizes the licensee's acquisition, possession, and manufac-  
41 ture of hemp extract from a licensed cannabinoid grower or cannabinoid  
42 extractor for the processing of hemp extract or the production of hemp  
43 extract products marketed, distributed or sold for cannabinoid content  
44 and used or intended for human or animal consumption or use.

45 2. Notwithstanding subdivision one of this section, nothing shall  
46 prevent a cannabinoid manufacturer from manufacturing industrial hemp  
47 products not used or intended for human or animal consumption or use.

48 § 95. Cannabinoid extractor license. 1. A cannabinoid extractor  
49 license authorizes the licensee's acquisition, possession, extraction  
50 and manufacture of hemp extract from a licensed cannabinoid grower for  
51 the processing of hemp extract or the production of hemp extract  
52 products marketed, distributed or sold for cannabinoid content and used  
53 or intended for human or animal consumption or use.

54 2. No cannabinoid extractor licensee shall engage in any other busi-  
55 ness on the licensed premises; except that nothing contained in this

1 article shall prevent a cannabinoid extractor licensee from also being  
2 licensed as a cannabinoid grower on the same premises.

3 3. Notwithstanding subdivisions one and two of this section, nothing  
4 shall prevent a cannabinoid extractor from manufacturing industrial hemp  
5 products not used or intended for human or animal consumption or use.

6 4. A person authorized under article twenty-nine of the agriculture  
7 and markets law as an industrial hemp processor shall qualify for a  
8 cannabinoid extractor license provided it can demonstrate to the office  
9 that its extraction of industrial hemp meets all the requirements for  
10 hemp extract under a cannabinoid extractor license.

11 § 96. Cannabinoid license applications. 1. Persons shall apply for a  
12 cannabinoid grower license, cannabinoid manufacturer license and/or a  
13 cannabinoid extractor license by submitting an application upon a form  
14 supplied by the office, providing all the requested information, veri-  
15 fied by the applicant or an authorized representative of the applicant.

16 2. A separate license shall be required for each facility at which  
17 growing, manufacturing and/or extracting is conducted.

18 3. Each applicant shall remit with its application the fee for each  
19 office requested license.

20 § 97. Information to be requested in applications for licenses. 1. The  
21 office shall have the authority to prescribe the manner and form in  
22 which an application must be submitted to the office for licensure under  
23 this article.

24 2. The executive director is authorized to adopt regulations pursuant  
25 to the state administrative procedure act establishing information which  
26 must be included on an application for licensure under this article.  
27 Such information may include, but is not limited to: information about  
28 the applicant's identity, including racial and ethnic diversity; infor-  
29 mation about prior use of farmland; ownership and investment informa-  
30 tion, including the corporate structure; evidence of good moral charac-  
31 ter, including the submission of fingerprints by the applicant to the  
32 division of criminal justice services; information about the premises to  
33 be licensed; financial statements; and any other information prescribed  
34 in regulation.

35 3. All license applications shall be signed by the applicant (if an  
36 individual), by a managing partner (if a limited liability corporation),  
37 by an officer (if a corporation), or by all partners (if a partnership).  
38 Each person signing such application shall verify it as true under the  
39 penalties of perjury.

40 4. All license or permit applications shall be accompanied by a check,  
41 draft or other forms of payment as the office may require or authorize  
42 in the amount required by this article for such license or permit.

43 5. If there be any change, after the filing of the application or the  
44 granting of a license, in any of the facts required to be set forth in  
45 such application, a supplemental statement giving notice of such change,  
46 cost and source of money involved in the change, duly verified, shall be  
47 filed with the office within ten days after such change. Failure to do  
48 so shall, if willful and deliberate, be cause for revocation of the  
49 license.

50 6. In giving any notice, or taking any action in reference to a licen-  
51 see of a licensed premises, the office may rely upon the information  
52 furnished in such application and in any supplemental statement  
53 connected therewith, and such information may be presumed to be correct,  
54 and shall be binding upon a licensee or licensed premises as if correct.  
55 All information required to be furnished in such application or supple-  
56 mental statements shall be deemed material in any prosecution for perju-

1 ry, any proceeding to revoke, cancel or suspend any license, and in the  
2 office's determination to approve or deny the license.

3 7. The office may, upon documentation therefor, waive the submission  
4 of any category of information described in this section for any catego-  
5 ry of license or permit, provided that it shall not be permitted to  
6 waive the requirement for submission of any such category of information  
7 solely for an individual applicant or applicants.

8 § 98. Fees. The office shall have the authority to charge licensees a  
9 biennial license fee. Such fee may be based on the amount of hemp  
10 extract to be grown, processed, manufactured or extracted by the licen-  
11 see, the gross annual receipts of the licensee for the previous license  
12 period, or any other factors deemed appropriate by the office.

13 § 99. Selection criteria. 1. An applicant shall furnish evidence:

14 (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol  
15 concentration that does not exceed a percentage of delta-9-tetrahydro-  
16 cannabinol cannabis set by the executive director on a dry weight basis  
17 of combined leaves and flowers of the plant of the genus cannabis, or  
18 per volume or weight of cannabis product;

19 (b) its ability to comply with all applicable state laws and regu-  
20 lations;

21 (c) that the applicant is ready, willing and able to properly carry on  
22 the activities for which a license is sought; and

23 (d) that the applicant is in possession of or has the right to use  
24 land, buildings and equipment sufficient to properly carry on the activ-  
25 ity described in the application.

26 2. The office, in considering whether to grant the license applica-  
27 tion, shall consider whether:

28 (a) it is in the public interest that such license be granted, taking  
29 into consideration whether the number of licenses will be adequate or  
30 excessive to reasonably serve demand;

31 (b) the applicant and its managing officers are of good moral charac-  
32 ter and do not have an ownership or controlling interest in more  
33 licenses or permits than allowed by this chapter;

34 (c) preference shall be given to applicants that are currently farming  
35 in the state and are eligible or currently receiving an agricultural  
36 assessment pursuant to article twenty-five-AA of the agriculture and  
37 markets law; and

38 (d) the applicant satisfies any other conditions as determined by the  
39 office.

40 3. If the executive director is not satisfied that the applicant  
41 should be issued a license, the executive director shall notify the  
42 applicant in writing of the specific reason or reasons for denial.

43 4. The executive director shall have authority and sole discretion to  
44 determine the number of licenses issued pursuant to this article.

45 § 100. Limitations of licensure; duration. 1. No license pursuant to  
46 this article may be issued to a person under the age of eighteen years.

47 2. The office shall have the authority to limit, by canopy, plant  
48 count or other means, the amount of hemp extract allowed to be culti-  
49 vated, processed, extracted or sold by a licensee.

50 3. All licenses under this article shall expire two years after the  
51 date of issue and be subject to any rules or limitations prescribed by  
52 the executive director in regulation.

53 § 101. License renewal. 1. Each license, issued pursuant to this arti-  
54 cle, may be renewed upon application therefor by the licensee and the  
55 payment of the fee for such license as prescribed by this article.

1 2. In the case of applications for renewals, the office may dispense  
2 with the requirements of such statements as it deems unnecessary in view  
3 of those contained in the application made for the original license, but  
4 in any event the submission of photographs of the licensed premises  
5 shall be dispensed with, provided the applicant for such renewal shall  
6 file a statement with the office to the effect that there has been no  
7 alteration of such premises since the original license was issued.

8 3. The office may make such rules as may be necessary, not inconsis-  
9 ent with this chapter, regarding applications for renewals of licenses  
10 and permits and the time for making the same.

11 4. The office shall provide an application for renewal of a license  
12 issued under this article not less than ninety days prior to the expira-  
13 tion of the current license.

14 5. The office may only issue a renewal license upon receipt of the  
15 prescribed renewal application and renewal fee from a licensee if, in  
16 addition to the criteria in section ninety-seven of this article, the  
17 licensee's license is not under suspension and has not been revoked.

18 6. The office shall have the authority to charge applicants for licen-  
19 sure under this article a non-refundable application fee. Such fee may  
20 be based on the type of licensure sought, cultivation and/or production  
21 volume, or any other factors deemed reasonable and appropriate by the  
22 office to achieve the policy and purpose of this chapter.

23 § 102. Form of license. Licenses issued pursuant to this article shall  
24 specify:

- 25 1. the name and address of the licensee;
- 26 2. the activities permitted by the license;
- 27 3. the land, buildings and facilities that may be used for the  
28 licensed activities of the licensee;
- 29 4. a unique license number issued by the department to the licensee;  
30 and
- 31 5. such other information as the executive director shall deem neces-  
32 sary to assure compliance with this chapter.

33 § 103. Amendments to license and duty to update information submitted  
34 for licensing. 1. Upon application of a licensee to the office, a  
35 license may be amended to allow the licensee to relocate within the  
36 state, to add or delete licensed activities or facilities, or to amend  
37 the ownership or organizational structure of the entity that is the  
38 licensee. The fee for such amendment shall be two hundred fifty dollars.

39 2. In the event that any of the information provided by the applicant  
40 changes either while the application is pending or after the license is  
41 granted, within ten days of any such change, the applicant or licensee  
42 shall submit to the office a verified statement setting forth the change  
43 in circumstances of facts set forth in the application. Failure to do so  
44 shall, if willful and deliberate, be cause for revocation of the  
45 license.

46 3. A license shall become void by a change in ownership, substantial  
47 corporate change or location without prior written approval of the exec-  
48 utive director. The executive director may promulgate regulations  
49 allowing for certain types of changes in ownership without the need for  
50 prior written approval.

51 4. For purposes of this section, "substantial corporate change" shall  
52 mean:

- 53 (a) for a corporation, a change of eighty percent or more of the offi-  
54 cers and/or directors, or a transfer of eighty percent or more of stock  
55 of such corporation, or an existing stockholder obtaining eighty percent  
56 or more of the stock of such corporation; and

1 (b) for a limited liability company, a change of eighty percent or  
2 more of the managing members of the company, or a transfer of eighty  
3 percent or more of ownership interest in said company, or an existing  
4 member obtaining a cumulative of eighty percent or more of the ownership  
5 interest in said company.

6 § 104. Record keeping and tracking. 1. The executive director shall,  
7 by regulation, require each licensee pursuant to this article to adopt  
8 and maintain security, tracking, record keeping, record retention and  
9 surveillance systems, relating to all hemp extract at every stage of  
10 acquiring, possession, manufacture, transport, sale, or delivery, or  
11 distribution by the licensee, subject to regulations of the executive  
12 director.

13 2. Every licensee shall keep and maintain upon the licensed premises,  
14 adequate books and records of all transactions involving the licensee  
15 and sale of its products, which shall include all information required  
16 by rules promulgated by the office.

17 3. Each sale shall be recorded separately on a numbered invoice, which  
18 shall have printed thereon the number, the name of the licensee, the  
19 address of the licensed premises, and the current license number.

20 4. Such books, records and invoices shall be kept for a period of five  
21 years and shall be available for inspection by any authorized represen-  
22 tative of the office.

23 § 105. Inspections and ongoing requirements. All licensees shall be  
24 subject to reasonable inspection by the office, in consultation with the  
25 department of health, and a person who holds a license must make himself  
26 or herself, or an agent thereof, available and present for any  
27 inspection required by the office. The office shall make reasonable  
28 accommodations so that ordinary business is not interrupted and safety  
29 and security procedures are not compromised by the inspection.

30 § 106. Packaging and labeling of hemp extract. 1. The office, in  
31 consultation with the department of health, is authorized to promulgate  
32 rules and regulations governing the packaging and labeling of hemp  
33 extract products, sold or possessed for sale in New York state.

34 2. Such regulations shall include, but not be limited to, requiring  
35 labels warning consumers of any potential impact on human health result-  
36 ing from the consumption of hemp extract products that shall be affixed  
37 to those products when sold, if such labels are deemed warranted by the  
38 office. No label may state that hemp extract can treat, cure or prevent  
39 any disease without approval pursuant to federal law.

40 3. Such rules and regulations shall establish a QR code which may be  
41 used in conjunction with similar technology for labels and establish  
42 methods and procedures for determining, among other things, serving  
43 sizes for hemp extract products, active cannabinoid concentration per  
44 serving size, number of servings per container, and the growing region,  
45 state or country of origin if not from the United States. Such regu-  
46 lations shall also require a supplement fact panel that incorporates  
47 data regarding serving sizes and potency thereof.

48 4. The packaging, sale, or possession by any licensee of any hemp  
49 product intended for human or animal consumption or use not labeled or  
50 offered in conformity with rules and regulations promulgated in accord-  
51 ance with this section shall be grounds for the imposition of a fine,  
52 and/or the suspension, revocation or cancellation of a license.

53 § 107. Provisions governing the growing, manufacturing and extracting  
54 of hemp extract. 1. No licensed cannabinoid grower, manufacturer or  
55 extractor shall sell, or agree to sell or deliver in the state any hemp  
56 extract products, as the case may be, except in sealed containers

1 containing quantities in accordance with size standards pursuant to  
2 rules adopted by the office. Such containers shall have affixed thereto  
3 such labels as may be required by the rules of the office.

4 2. Licensed cannabinoid growers shall be prohibited from using pesti-  
5 cides.

6 3. All hemp extract products shall be extracted and manufactured in  
7 accordance with good manufacturing processes, pursuant to Part 111 or  
8 117 of Title 21 of the Code of Federal Regulations as may be modified  
9 and decided upon by the executive director in regulation.

10 4. Within thirty days of the effective date of this article, the  
11 office shall approve the manufacture, distribution, and sale of beverag-  
12 es containing no more than twenty milligrams of cannabidiol per twelve  
13 ounce beverage. The hemp extract used in such beverages shall be grown,  
14 extracted and manufactured in the state of New York. The office shall  
15 issue guidance on the label, warning, point of sale, and advertising for  
16 such beverages.

17 5. Terpenes derived from the hemp plant are generally recognized as  
18 safe.

19 6. Those persons growing, processing or manufacturing food or food  
20 ingredients from hemp extracts, which food or food ingredients are  
21 generally recognized as safe, shall be subject to regulation and/or  
22 licensing under this article.

23 7. Notwithstanding any other provision of law to the contrary,  
24 prepackaged beverages that contain hemp or any part of the hemp plant,  
25 including the seeds and all naturally occurring cannabinoids, compounds,  
26 concentrates, extracts, isolates, terpenes, resins, isomers, acids,  
27 salts, salts of isomers or cannabidiol derivatives, are not considered  
28 to be adulterated or misbranded under this article based solely on the  
29 inclusion of hemp or any part of the hemp plant as long as the amount of  
30 cannabidiol is limited to twenty milligrams per serving. The office  
31 shall allow cannabidiol in food products and have the power to alter  
32 amounts in beverages on the basis of scientific evidence connected with  
33 health effects.

34 8. The nonpharmaceutical or nonmedical production, marketing, sale or  
35 distribution of beverages, food or food products within the state that  
36 contain hemp or any part of the hemp plant may not be restricted or  
37 prohibited within the state based solely on the inclusion of hemp or any  
38 part of the hemp plant.

39 9. A beverage and/or food producer may not make any claims that a  
40 beverage, food or food product that contains hemp can treat, cure or  
41 prevent any disease without approval pursuant to federal law.

42 § 108. Laboratory testing. 1. Every cannabinoid manufacturer and  
43 cannabinoid extractor shall contract with an independent laboratory to  
44 test the hemp extract products produced by the licensed manufacturer or  
45 extractor. The executive director, in consultation with the commissioner  
46 of health, shall approve the laboratory and require that the laboratory  
47 report testing results in a manner determined by the executive director.  
48 The executive director is authorized to issue regulations requiring the  
49 laboratory to perform certain tests and services.

50 2. Cannabinoid manufacturers and cannabinoid extractors shall make  
51 laboratory test reports available to persons holding a cannabinoid  
52 permit pursuant to section one hundred twelve of this article for all  
53 cannabis products manufactured by the licensee.

54 3. On-site laboratory testing by licensees is permissible; however,  
55 such testing shall not be certified by the office and does not exempt

1 the licensee from the requirements of quality assurance testing at a  
2 testing laboratory pursuant to this section.

3 § 109. Advertising. The office shall promulgate rules and regulations  
4 governing the advertising of hemp extract and any other related products  
5 or services as determined by the executive director.

6 § 110. Research. 1. The office shall promote research and development  
7 through public-private partnerships to bring new hemp extract and indus-  
8 trial hemp derived products to market within the state.

9 2. The executive director may develop and carry out research programs  
10 which may include programs at the New York state college of agriculture  
11 and life sciences, pursuant to section fifty-seven hundred twelve of the  
12 education law and/or New York state university research institutions  
13 relating to industrial hemp and hemp extract.

14 § 111. Regulations. The executive director shall in consultation with  
15 the cannabis advisory board and the hemp workgroup promulgate regu-  
16 lations pursuant to the state administrative procedure act to implement  
17 this article.

18 § 112. Cannabinoid permit. The office is hereby authorized to issue  
19 cannabinoid permits to retailers, wholesalers, and distributors author-  
20 izing them to sell cannabis products derived from hemp extract. The  
21 executive director shall have the authority to set fees for such permit,  
22 to establish the period during which such permit is authorized, and to  
23 make rules and regulations, including emergency regulations, to imple-  
24 ment this section.

25 § 113. New York hemp product. The executive director may establish and  
26 adopt official grades and standards for hemp extract and hemp extract  
27 products as he or she may deem advisable, which are produced for sale in  
28 this state and, from time to time, may amend or modify such grades and  
29 standards.

30 § 114. Penalties and violations of this article. Notwithstanding the  
31 provision of any law to the contrary, the failure to comply with the  
32 requirements of this article, the rules and regulations promulgated  
33 thereunder, may be punishable by a fine of not more than one thousand  
34 dollars for a first violation; not more than five thousand dollars for a  
35 second violation; and not more than ten thousand dollars for a third  
36 violation and each subsequent violation thereafter.

37 § 115. Hemp workgroup. The executive director shall appoint a New York  
38 state industrial hemp and hemp extract workgroup, composed of research-  
39 ers, producers, processors, manufacturers and trade associations, to  
40 make recommendations for the industrial hemp and hemp extract programs,  
41 state and federal policies and policy initiatives, and opportunities for  
42 the promotion and marketing of industrial hemp and hemp extract as  
43 consistent with federal and state laws, rules and regulations, which  
44 workgroup shall continue for such time as the executive director deems  
45 appropriate.

46 § 116. Prohibitions. Except as authorized in this article, the manu-  
47 facturing of hemp extract for human or animal consumption and the  
48 distribution and/or sale thereof is prohibited in this state unless the  
49 manufacturer is licensed under this article. Hemp extract and products  
50 derived therefrom for human and animal consumption produced outside the  
51 state shall not be distributed or sold in this state unless they meet  
52 all standards and requirements established for such product manufactured  
53 in the state under this article and its rules and regulations as deter-  
54 mined by the office.



1  
2ARTICLE 6  
GENERAL PROVISIONS

- 3 Section 125. General prohibitions and restrictions.  
4 126. License to be confined to premises licensed; premises for  
5 which no license shall be granted; transporting cannabis.  
6 127. Protections for the use of cannabis; unlawful discrimi-  
7 nations prohibited.  
8 128. Registrations and licenses.  
9 129. Laboratory testing permits.  
10 130. Special use permits.  
11 131. Professional and medical record keeping.  
12 132. Local opt-out; municipal control and preemption.  
13 133. Personal cultivation.  
14 134. Executive director to be necessary party to certain  
15 proceedings.  
16 135. Penalties for violation of this chapter.  
17 136. Revocation of registrations, licenses and permits for  
18 cause; procedure for revocation or cancellation.  
19 137. Lawful actions pursuant to this chapter.  
20 138. Review by courts.  
21 139. Illicit cannabis.  
22 140. Persons forbidden to traffic cannabis; certain officials  
23 not to be interested in manufacture or sale of cannabis  
24 products.  
25 141. Access to criminal history information through the division  
26 of criminal justice services.  
27 142. Severability.
- 28 § 125. General prohibitions and restrictions. 1. No person shall  
29 cultivate, process, or distribute for sale or sell at wholesale or  
30 retail any cannabis, cannabis product, medical cannabis or hemp extract  
31 product within the state without obtaining the appropriate registration,  
32 license, or permit therefor required by this chapter.  
33 2. No registered organization, licensee, or permittee shall sell, or  
34 agree to sell or deliver in this state any cannabis or hemp extract for  
35 the purposes of resale to any person who is not duly registered,  
36 licensed or permitted pursuant to this chapter to sell such product, at  
37 wholesale or retail, as the case may be, at the time of such agreement  
38 and sale.  
39 3. No registered organization, licensee, or permittee shall employ, or  
40 permit to be employed, or shall allow to work, on any premises regis-  
41 tered or licensed for retail sale hereunder, any person under the age of  
42 twenty-one years in any capacity where the duties of such person require  
43 or permit such person to sell, dispense or handle cannabis.  
44 4. No registered organization, licensee, or permittee shall sell,  
45 deliver or give away, or cause, permit or procure to be sold, delivered  
46 or given away any cannabis, cannabis product, or medical cannabis on  
47 credit; except that a registered organization, licensee or permittee may  
48 accept third party credit cards for the sale of any cannabis, cannabis  
49 product, or medical cannabis for which it is registered, licensed or  
50 permitted to dispense or sell to patients or cannabis consumers. This  
51 includes, but is not limited to, any consignment sale of any kind.  
52 5. No registered organization, licensee, or permittee shall cease to  
53 be operated as a bona fide or legitimate premises within the contem-  
54 plation of the registration, license, or permit issued for such prem-  
55 ises, as determined within the judgment of the office.

1 6. No registered organization, licensee, or permittee shall refuse,  
2 nor any person holding a registration, license, or permit refuse, nor  
3 any officer or director of any corporation or organization holding a  
4 registration, license, or permit refuse, to appear and/or testify under  
5 oath at an inquiry or hearing held by the office, with respect to any  
6 matter bearing upon the registration, license, or permit, the conduct of  
7 any people at the licensed premises, or bearing upon the character or  
8 fitness of such registrant, licensee, or permittee to continue to hold  
9 any registration, license, or permit. Nor shall any of the above offer  
10 false testimony under oath at such inquiry or hearing.

11 7. No registered organization, licensee, or permittee shall engage,  
12 participate in, or aid or abet any violation or provision of this chap-  
13 ter, or the rules or regulations of the office.

14 8. The proper conduct of registered, licensed, or permitted premises  
15 is essential to the public interest. Failure of a registered organiza-  
16 tion, licensee, or permittee to exercise adequate supervision over the  
17 registered, licensed, or permitted location poses a substantial risk not  
18 only to the objectives of this chapter but imperils the health, safety,  
19 and welfare of the people of this state. It shall be the obligation of  
20 each person registered, licensed, or permitted under this chapter to  
21 ensure that a high degree of supervision is exercised over any and all  
22 conduct at any registered, licensed, or permitted location at any and  
23 all times in order to safeguard against abuses of the privilege of being  
24 registered, licensed, or permitted, as well as other violations of law,  
25 statute, rule, or regulation. Persons registered, licensed, or permitted  
26 shall be held strictly accountable for any and all violations that occur  
27 upon any registered, licensed, or permitted premises, and for any and  
28 all violations committed by or permitted by any manager, agent or  
29 employee of such registered, licensed, or permitted person.

30 9. It shall be unlawful for any person, partnership or corporation  
31 operating a place for profit or pecuniary gain, with a capacity for the  
32 assemblage of twenty or more persons to permit a person or persons to  
33 come to the place of assembly for the purpose of cultivating, process-  
34 ing, distributing, or retail distribution or sale of cannabis on said  
35 premises. This includes, but is not limited, to, cannabis that is either  
36 provided by the operator of the place of assembly, his agents, servants  
37 or employees, or cannabis that is brought onto said premises by the  
38 person or persons assembling at such place, unless an appropriate regis-  
39 tration, license, or permit has first been obtained from the office of  
40 cannabis management by the operator of said place of assembly.

41 10. As it is a privilege under the law to be registered, licensed, or  
42 permitted to cultivate, process, distribute, or sell cannabis, the  
43 office may impose any such further restrictions upon any registrant,  
44 licensee, or permittee in particular instances as it deems necessary to  
45 further state policy and best serve the public interest. A violation or  
46 failure of any person registered, licensed, or permitted to comply with  
47 any condition, stipulation, or agreement, upon which any registration,  
48 license, or permit was issued or renewed by the office shall subject the  
49 registrant, licensee, or permittee to suspension, cancellation, revoca-  
50 tion, and/or civil penalties as determined by the office.

51 11. No adult-use cannabis or medical cannabis may be imported to, or  
52 exported out of, New York state by a registered organization, licensee  
53 or person holding a license and/or permit pursuant to this chapter,  
54 until such time as it may become legal to do so under federal law.  
55 Should it become legal to do so under federal law, the office is granted

1 the power to promulgate such rules and regulations as it deems necessary  
2 to protect the public and the policy of the state.

3 12. No registered organization, licensee or any of its agents, serv-  
4 ants or employees shall sell any cannabis product, or medical cannabis  
5 from house to house by means of a truck or otherwise, where the sale is  
6 consummated and delivery made concurrently at the residence or place of  
7 business of a cannabis consumer. This subdivision shall not prohibit the  
8 delivery by a registered organization to certified patients or their  
9 designated caregivers, pursuant to article three of this chapter.

10 13. No licensee shall employ any canvasser or solicitor for the  
11 purpose of receiving an order from a certified patient, designated care-  
12 giver or cannabis consumer for any cannabis product, or medical cannabis  
13 at the residence or place of business of such patient, caregiver or  
14 consumer, nor shall any licensee receive or accept any order, for the  
15 sale of any cannabis product, or medical cannabis which shall be solici-  
16 ited at the residence or place of business of a patient, caregiver or  
17 consumer. This subdivision shall not prohibit the solicitation by a  
18 distributor of an order from any licensee at the licensed premises of  
19 such licensee.

20 § 126. License to be confined to premises licensed; premises for which  
21 no license shall be granted; transporting cannabis. 1. A registration,  
22 license, or permit issued to any person, pursuant to this chapter, for  
23 any registered, licensed, or permitted premises shall not be transfera-  
24 ble to any other person, to any other location or premises, or to any  
25 other building or part of the building containing the licensed premises  
26 except in the discretion of the office. All privileges granted by any  
27 registration, license, or permit shall be available only to the person  
28 therein specified, and only for the premises licensed and no other  
29 except if authorized by the office. Provided, however, that the  
30 provisions of this section shall not be deemed to prohibit the amendment  
31 of a registration or license as provided for in this chapter. A  
32 violation of this section shall subject the registration, license, or  
33 permit to revocation for cause.

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

39 3. In determining whether to issue such a proscription against grant-  
40 ing any registration, license, or permit for such five-year period, in  
41 addition to any other factors deemed relevant to the office, the office  
42 shall, in the case of a license revoked due to the illegal sale of  
43 cannabis to a minor, determine whether the proposed subsequent licensee  
44 has obtained such premises through an arm's length transaction, and, if  
45 such transaction is not found to be an arm's length transaction, the  
46 office shall deny the issuance of such license.

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

1 provided demonstrating that the sale, lease, management agreement, or  
2 other agreement giving the applicant control over the cannabis at the  
3 premises, was not conducted, in whole or in part, for the purpose of  
4 permitting the original licensee to avoid the effect of the revocation:

5 (a) a sale between relatives;

6 (b) a sale between related companies or partners in a business; or

7 (c) a sale, lease, management agreement, or other agreement giving the  
8 applicant control over the cannabis at the premises, affected by other  
9 facts or circumstances that would indicate that the sale, lease, manage-  
10 ment agreement, or other agreement giving the applicant control over the  
11 cannabis at the premises, is entered into for the primary purpose of  
12 permitting the original licensee to avoid the effect of the revocation.

13 5. No registered organization, licensee or permittee shall transport  
14 cannabis products or medical cannabis except in vehicles owned and oper-  
15 ated by such registered organization, licensee or permittee, or hired  
16 and operated by such registered organization, licensee or permittee from  
17 a trucking or transportation company permitted and registered with the  
18 office.

19 6. No common carrier or person operating a transportation facility in  
20 this state, other than the United States government, shall receive for  
21 transportation or delivery within the state any cannabis products or  
22 medical cannabis unless the shipment is accompanied by copy of a bill of  
23 lading, or other document, showing the name and address of the consig-  
24 nor, the name and address of the consignee, the date of the shipment,  
25 and the quantity and kind of cannabis products or medical cannabis  
26 contained therein.

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

42 2. No school or landlord may refuse to enroll or lease to and may not  
43 otherwise penalize a person solely for conduct allowed under this chap-  
44 ter, except as exempted:

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

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

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

52 3. For the purposes of medical care, including organ transplants, a  
53 certified patient's authorized use of medical cannabis must be consid-  
54 ered the equivalent of the use of any other medication under the direc-  
55 tion of a practitioner and does not constitute the use of an illicit

1 substance or otherwise disqualify a registered qualifying patient from  
2 medical care.

3 4. It is the public policy of the state of New York to prohibit  
4 employers from discriminating against employees for legal activities  
5 occurring outside of the workplace. Nothing in this section shall inter-  
6 fere with an employer's obligation to provide a safe and healthy work  
7 place, free from recognized hazards, as required by state and federal  
8 occupation safety and health law or require an employer to commit any  
9 act that would cause the employer to be in violation of any other feder-  
10 al law, or that would result in the loss of a federal contract or feder-  
11 al funding.

12 5. For the purposes of this section, an employer may consider an  
13 employee's ability to perform the employee's job responsibilities to be  
14 impaired when the employee manifests specific articulable symptoms while  
15 working that decrease or lessen the employee's performance of the duties  
16 or tasks of the employee's job position.

17 6. Nothing in this section shall restrict an employer's ability to  
18 prohibit or take adverse employment action for the possession or use of  
19 intoxicating substances during work hours, or require an employer to  
20 commit any act that would cause the employer to be in violation of  
21 federal law, or that would result in the loss of a federal contract or  
22 federal funding.

23 7. As used in this section, "adverse employment action" means refusing  
24 to hire or employ, barring or discharging from employment, requiring a  
25 person to retire from employment, or discriminating against in compen-  
26 sation or in terms, conditions, or privileges of employment.

27 8. A person currently under parole, probation or other state super-  
28 vision, or released on bail awaiting trial may not be punished or other-  
29 wise penalized for conduct allowed under this chapter.

30 9. No person may be denied custody of or visitation or parenting time  
31 with a minor, and there is no presumption of neglect or child endanger-  
32 ment for conduct allowed under section 222.05 of the penal law, unless  
33 the person's behavior creates an unreasonable danger to the safety of  
34 the minor as established by clear and convincing evidence. For the  
35 purposes of this section, an "unreasonable danger" determination cannot  
36 be based solely on whether, when, and how often a person uses cannabis  
37 without separate evidence of harm.

38 § 128. Registrations and licenses. 1. No registration or license  
39 shall be transferable or assignable except that notwithstanding any  
40 other provision of law, the registration or license of a sole proprietor  
41 converting to corporate form, where such proprietor becomes the sole  
42 stockholder and only officer and director of such new corporation, may  
43 be transferred to the subject corporation if all requirements of this  
44 chapter remain the same with respect to such registration or license as  
45 transferred and, further, the registered organization or licensee shall  
46 transmit to the office, within ten days of the transfer of license  
47 allowable under this subdivision, on a form prescribed by the office,  
48 notification of the transfer of such license.

49 2. No registration or license shall be pledged or deposited as collat-  
50 eral security for any loan or upon any other condition; and any such  
51 pledge or deposit, and any contract providing therefor, shall be void.

52 3. Licenses issued under this chapter shall contain, in addition to  
53 any further information or material to be prescribed by the rules of the  
54 office, the following information:

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

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

3 (c) description by street and number, or otherwise, of licensed prem-  
4 ises; and

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

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

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

15 (a) the owners and directors of the laboratory are of good moral char-  
16 acter;

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

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

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

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

29 (f) the laboratory meets any and all requirements prescribed by this  
30 chapter and by the executive director in regulation.

31 3. The owner of a laboratory testing permit under this section shall  
32 not hold a registration or license in any category of this chapter and  
33 shall not have any direct or indirect ownership interest in such regis-  
34 tered organization or licensee. No board member, officer, manager,  
35 owner, partner, principal stakeholder or member of a registered organ-  
36 ization or licensee under this chapter, or such person's immediate fami-  
37 ly member, shall have an interest or voting rights in any laboratory  
38 testing permittee.

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

42 5. The executive director is authorized to promulgate regulations,  
43 requiring permitted laboratories to perform certain tests and services.

44 6. A laboratory granted a laboratory testing permit under this chapter  
45 shall not required to be licensed by the federal drug enforcement agen-  
46 cy.

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

54 1. Industrial cannabis permit - to purchase cannabis from one of the  
55 entities licensed by the office for use in the manufacture and sale of  
56 any of the following, when such cannabis is not otherwise suitable for

1 consumption purposes, namely: (a) apparel, energy, paper, and tools;  
2 (b) scientific, chemical, mechanical and industrial products; or (c) any  
3 other industrial use as determined by the executive director in regu-  
4 lation.

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

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

11 4. Cannabinoid permit - to sell cannabinoid products for off-premises  
12 consumption.

13 5. Temporary retail cannabis permit - to authorize the retail sale of  
14 adult-use cannabis to cannabis consumers, for a limited purpose or dura-  
15 tion.

16 6. Caterer's permit - to authorize the service of cannabis products at  
17 a function, occasion or event in a hotel, restaurant, club, ballroom or  
18 other premises, which shall authorize within the hours fixed by the  
19 office, during which cannabis may lawfully be sold or served on the  
20 premises in which such function, occasion or event is held.

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

26 8. Miscellaneous permits - to purchase, receive or sell cannabis,  
27 cannabis products or medical cannabis, or receipts, certificates,  
28 contracts or other documents pertaining to cannabis, cannabis products,  
29 or medical cannabis, in cases not expressly provided for by this chap-  
30 ter, when in the judgment of the office it would be appropriate and  
31 consistent with the policy and purpose of this chapter.

32 § 131. Professional and medical record keeping. Any professional  
33 providing services in connection with a licensed or potentially licensed  
34 business under this chapter, or in connection with other conduct permit-  
35 ted under this chapter, and any medical professional providing medical  
36 care to a patient, other than a certified patient, may agree with their  
37 client or patient to maintain no record, or any reduced level of record  
38 keeping that professional and client or patient may agree. In case of  
39 such agreement, the professional's only obligation shall be to keep such  
40 records as agreed, and to keep a record of the agreement. Such reduced  
41 record keeping is conduct permitted under this chapter.

42 § 132. Local opt-out; municipal control and preemption. 1. The  
43 provisions of article four of this chapter, authorizing the cultivation,  
44 processing, distribution and sale of adult-use cannabis to cannabis  
45 consumers, shall not be applicable to a town, city or village which,  
46 after a mandatory referendum held pursuant to section twenty-three of  
47 the municipal home rule law, adopts a local law to prohibit the estab-  
48 lishment or operation of one or more types of licenses contained in  
49 article four of this chapter, within the jurisdiction of the town, city  
50 or village. Provided, however, that any town law shall apply to the area  
51 of the town outside of any village within such town.

52 2. Except as provided for in subdivision one of this section, all  
53 county, town, city and village governing bodies are hereby preempted  
54 from adopting any rule, ordinance, regulation or prohibition pertaining  
55 to the operation or licensure of registered organizations, adult-use  
56 cannabis licenses or hemp licenses. However, municipalities may pass

1 local laws and ordinances governing the time, place and manner of  
2 licensed adult-use cannabis retail dispensaries, provided such ordinance  
3 or regulation does not make the operation of such licensed retail  
4 dispensaries unreasonably impracticable as determined by the executive  
5 director in consultation with the cannabis advisory board.

6 § 133. Personal cultivation. 1. Notwithstanding any provision of law  
7 to the contrary, a person over the age of twenty-one shall be able to  
8 plant, cultivate, harvest, dry or process cannabis for personal use  
9 subject to the following restrictions:

10 (a) all cultivation and processing shall be done in accordance with  
11 local ordinances; and

12 (b) the living plants and any cannabis produced by the plants in  
13 excess of three ounces must be kept within the person's private resi-  
14 dence, or upon the grounds of that private residence (e.g., in an  
15 outdoor garden area), in a locked space, and not visible by normal  
16 unaided vision from a public place; and

17 (c) not more than six living plants may be planted, cultivated,  
18 harvested, dried or processed within a single private residence, or upon  
19 the grounds of that private residence, at one time.

20 2. A town, city or village may enact and enforce regulations to  
21 reasonably regulate the actions and conduct under this section. Regu-  
22 lations may not completely prohibit persons engaging in conduct made  
23 lawful under subdivision one of this section.

24 3. A violation of subdivision one of this section is a misdemeanor,  
25 punishable under section 222.10 of the penal law and subject to a local  
26 fine of not more than one hundred dollars.

27 § 134. Executive director to be necessary party to certain  
28 proceedings. The executive director shall be made a party to all  
29 actions and proceedings affecting in any manner the ability of a regis-  
30 tered organization or licensee to operate within a municipality, or the  
31 result of any vote thereupon; to all actions and proceedings relative to  
32 issuance or revocation of registrations, licenses or permits; to all  
33 injunction proceedings, and to all other civil actions or proceedings  
34 which in any manner affect the enjoyment of the privileges or the opera-  
35 tion of the restrictions provided for in this chapter.

36 § 135. Penalties for violation of this chapter. 1. Any person who  
37 cultivates for sale or sells cannabis, cannabis products, or medical  
38 cannabis without having an appropriate registration, license or permit  
39 therefor, or whose registration, license, or permit has been revoked,  
40 surrendered or cancelled, shall be subject to conviction as provided by  
41 article two hundred twenty-two of the penal law.

42 2. Any registered organization or licensee, whose registration or  
43 license has been suspended pursuant to the provisions of this chapter,  
44 who sells cannabis, cannabis products, medical cannabis or hemp extract  
45 during the suspension period, shall be subject to conviction as provided  
46 by article two hundred twenty-two of the penal law, and upon conviction  
47 thereof shall be punished by a fine of not more than five thousand  
48 dollars per instance.

49 3. Any person who shall make any false statement in the application  
50 for a registration, license or a permit under this chapter shall be  
51 subject to a fine of not more than five thousand dollars.

52 4. Any violation by any person of any provision of this chapter for  
53 which no punishment or penalty is otherwise provided shall be a misde-  
54 meanor.

55 5. Any person under the age of twenty-one found to be in possession of  
56 cannabis or cannabis products that is not a patient registered pursuant



1 to article three of this chapter shall be in violation of this chapter  
2 and shall be subject to the following penalty:

3 (a) (i) The person shall be subject to a fine of not more than twen-  
4 ty-five dollars. The fine shall be payable to the office of cannabis  
5 management.

6 (ii) Any identifying information provided by the enforcement agency  
7 for the purpose of facilitating payment of the fine shall not be shared  
8 or disclosed under any circumstances with any other agency or law  
9 enforcement division.

10 (b) The person shall, upon payment of the required fine, be provided  
11 with information related to the dangers of underage use of cannabis and  
12 information related to cannabis use disorder by the office of cannabis  
13 management.

14 (c) The issuance and subsequent payment of such fine shall in no way  
15 qualify as a criminal accusation, admission of guilt, or a criminal  
16 conviction and shall in no way operate as a disqualification of any such  
17 person from holding public office, attaining public employment, or as a  
18 forfeiture of any right or privilege.

19 6. Cannabis recovered from individuals who are found to be in  
20 violation of this chapter shall be considered a nuisance and shall be  
21 disposed of or destroyed.

22 § 136. Revocation of registrations, licenses and permits for cause;  
23 procedure for revocation or cancellation. 1. Any registration, license  
24 or permit issued pursuant to this chapter may be revoked, cancelled,  
25 suspended and/or subjected to the imposition of a civil penalty for  
26 cause, and must be revoked for the following causes:

27 (a) conviction of the registered organization, licensee, permittee or  
28 his or her agent or employee for selling any illegal cannabis on the  
29 premises registered, licensed or permitted; or

30 (b) for transferring, assigning or hypothecating a registration,  
31 license or permit without prior written approval of the office.

32 2. Notwithstanding the issuance of a registration, license or permit  
33 by way of renewal, the office may revoke, cancel or suspend such regis-  
34 tration, license or permit and/or may impose a civil penalty against any  
35 holder of such registration, license or permit, as prescribed by this  
36 section, for causes or violations occurring during the license period  
37 immediately preceding the issuance of such registration, license or  
38 permit.

39 3. (a) As used in this section, the term "for cause" shall also  
40 include the existence of a sustained and continuing pattern of miscon-  
41 duct, failure to adequately prevent diversion or disorder on or about  
42 the registered, licensed or permitted premises, or in the area in front  
43 of or adjacent to the registered or licensed premises, or in any parking  
44 lot provided by the registered organization or licensee for use by  
45 registered organization or licensee's patrons, which, in the judgment of  
46 the office, adversely affects or tends to affect the protection, health,  
47 welfare, safety, or repose of the inhabitants of the area in which the  
48 registered or licensed premises is located, or results in the licensed  
49 premises becoming a focal point for police attention, or is offensive to  
50 public decency.

51 (b) (i) As used in this section, the term "for cause" shall also  
52 include deliberately misleading the authority:

53 (A) as to the nature and character of the business to be operated by  
54 the registered organization, licensee or permittee; or



1 (B) by substantially altering the nature or character of such business  
2 during the registration or licensing period without seeking appropriate  
3 approvals from the office.

4 (ii) As used in this subdivision, the term "substantially altering the  
5 nature or character" of such business shall mean any significant alter-  
6 ation in the scope of business activities conducted by a registered  
7 organization, licensee or permittee that would require obtaining an  
8 alternate form of registration, license or permit.

9 4. As used in this chapter, the existence of a sustained and continu-  
10 ing pattern of misconduct, failure to adequately prevent diversion or  
11 disorder on or about the premises may be presumed upon the sixth inci-  
12 dent reported to the office by a law enforcement agency, or discovered  
13 by the office during the course of any investigation, of misconduct,  
14 diversion or disorder on or about the premises or related to the opera-  
15 tion of the premises, absent clear and convincing evidence of either  
16 fraudulent intent on the part of any complainant or a factual error with  
17 respect to the content of any report concerning such complaint relied  
18 upon by the office.

19 5. Notwithstanding any other provision of this chapter to the contra-  
20 ry, a suspension imposed under this section against the holder of a  
21 registration issued pursuant to article three of this chapter, shall  
22 only suspend the licensed activities related to the type of cannabis,  
23 medical cannabis or adult-use cannabis involved in the violation result-  
24 ing in the suspension.

25 6. Any registration, license or permit issued by the office pursuant  
26 to this chapter may be revoked, cancelled or suspended and/or be  
27 subjected to the imposition of a monetary penalty in the manner  
28 prescribed by this section and by the executive director in regulation.

29 7. The office may on its own initiative, or on complaint of any  
30 person, institute proceedings to revoke, cancel or suspend any adult-use  
31 cannabis retail dispensary license or adult-use cannabis on-site  
32 consumption license and may impose a civil penalty against the licensee  
33 after a hearing at which the licensee shall be given an opportunity to  
34 be heard. Such hearing shall be held in such manner and upon such notice  
35 as may be prescribed in regulation by the executive director.

36 8. All other registrations, licenses or permits issued under this  
37 chapter may be revoked, cancelled, suspended and/or made subject to the  
38 imposition of a civil penalty by the office after a hearing to be held  
39 in such manner and upon such notice as may be prescribed in regulation  
40 by the executive director.

41 9. Where a licensee or permittee is convicted of two or more qualify-  
42 ing offenses within a five-year period, the office, upon receipt of  
43 notification of such second or subsequent conviction, shall, in addition  
44 to any other sanction or civil or criminal penalty imposed pursuant to  
45 this chapter, impose on such licensee a civil penalty not to exceed ten  
46 thousand dollars. For purposes of this subdivision, a qualifying  
47 offense shall mean the unlawful sale of cannabis to a person under the  
48 age of twenty-one. For purposes of this subdivision, a conviction of a  
49 licensee or an employee or agent of such licensee shall constitute a  
50 conviction of such licensee.

51 § 137. Lawful actions pursuant to this chapter. 1. Contracts related  
52 to the operation of registered organizations, licenses and permits under  
53 this chapter shall be lawful and shall not be deemed unenforceable on  
54 the basis that the actions permitted pursuant to the registration,  
55 license or permit are prohibited by federal law.

1 2. The following actions are not unlawful as provided under this chap-  
2 ter, shall not be an offense under any state or local law, and shall not  
3 result in any civil fine, seizure, or forfeiture of assets, or be the  
4 basis for detention or search against any person acting in accordance  
5 with this chapter:

6 (a) Actions of a registered organization, licensee, or permittee, or  
7 the employees or agents of such registered organization, licensee or  
8 permittee, as permitted by this chapter and consistent with rules and  
9 regulations of the office, pursuant to a valid registration, license or  
10 permit issued by the office.

11 (b) Actions of those who allow property to be used by a registered  
12 organization, licensee, or permittee, or the employees or agents of such  
13 registered organization, licensee or permittee, as permitted by this  
14 chapter and consistent with rules and regulations of the office, pursu-  
15 ant to a valid registration, license or permit issued by the office.

16 (c) Actions of any person or entity, their employees, or their agents  
17 providing a service to a registered organization, licensee, permittee or  
18 a potential registered organization, licensee, or permittee, as permit-  
19 ted by this chapter and consistent with rules and regulations of the  
20 office, relating to the formation of a business.

21 (d) The purchase, possession, or consumption of cannabis, and medical  
22 cannabis, as permitted by law, and consistent with rules and regulations  
23 of the office.

24 § 138. Review by courts. 1. The following actions by the office, and  
25 only the following actions by the office, shall be subject to review by  
26 the supreme court in the manner provided in article seventy-eight of the  
27 civil practice law and rules:

28 (a) Refusal by the office to issue a registration, license, or a  
29 permit.

30 (b) The revocation, cancellation or suspension of a registration,  
31 license, or permit by the office.

32 (c) The failure or refusal by the office to render a decision upon any  
33 application or hearing submitted to or held by the office within sixty  
34 days after such submission or hearing.

35 (d) The transfer by the office of a registration, license, or permit  
36 to any other entity or premises, or the failure or refusal by the office  
37 to approve such a transfer.

38 (e) Refusal to approve alteration of premises.

39 (f) Refusal to approve a corporate change in stockholders, stockhold-  
40 ings, officers or directors.

41 2. No stay shall be granted pending the determination of such matter  
42 except on notice to the office and only for a period of less than thirty  
43 days. In no instance shall a stay be granted where the office has issued  
44 a summary suspension of a registration, license, or permit for the  
45 protection of the public health, safety, and welfare.

46 § 139. Illicit cannabis. 1. "Illicit cannabis" means and includes any  
47 cannabis product, or medical cannabis owned, cultivated, distributed,  
48 bought, sold, packaged, rectified, blended, treated, fortified, mixed,  
49 processed, warehoused, possessed or transported, or on which any tax  
50 required to have been paid under any applicable state law has not been  
51 paid.

52 2. Any person who shall knowingly possess or have under his or her  
53 control any cannabis known by the person to be illicit cannabis is guil-  
54 ty of a misdemeanor.

1 3. Any person who shall knowingly barter or exchange with, or sell,  
2 give or offer to sell or to give another any cannabis known by the  
3 person to be illicit cannabis is guilty of a misdemeanor.

4 4. Any person who shall possess or have under his or her control or  
5 transport any cannabis known by the person to be illicit cannabis with  
6 intent to barter or exchange with, or to sell or give to another the  
7 same or any part thereof is guilty of a misdemeanor. Such intent is  
8 presumptively established by proof that the person knowingly possessed  
9 or had under his or her control one or more ounces of illicit cannabis.  
10 This presumption may be rebutted.

11 5. Any person who, being the owner, lessee, or occupant of any room,  
12 shed, tenement, booth or building, float or vessel, or part thereof,  
13 knowingly permits the same to be used for the cultivation, processing,  
14 distribution, purchase, sale, warehousing, transportation, or storage of  
15 any illicit cannabis, is guilty of a misdemeanor.

16 § 140. Persons forbidden to traffic cannabis; certain officials not to  
17 be interested in manufacture or sale of cannabis products. 1. The  
18 following are forbidden to traffic in cannabis:

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 office determines that  
22 the owner or licensee is otherwise suitable to be issued a license, and  
23 granting the license would not compromise public safety, the office  
24 shall conduct a thorough review of the nature of the crime, conviction,  
25 circumstances and evidence of rehabilitation of the owner, and shall  
26 evaluate the suitability of the owner or licensee to be issued a license  
27 based on the evidence found through the review. In determining which  
28 offenses are substantially related to the functions or duties of owning  
29 and operating a business, the office shall include, but not be limited  
30 to, the following:

31 (i) a felony conviction involving fraud, money laundering, forgery and  
32 other unlawful conduct related to owning and operating a business; and

33 (ii) a felony conviction for hiring, employing, or using a minor in  
34 transporting, carrying, selling, giving away, preparing for sale, or  
35 peddling, any controlled substance to a minor; or selling, offering to  
36 sell, furnishing, offering to furnish, administering, or giving any  
37 controlled substance to a minor.

38 (b) A person under the age of twenty-one years;

39 (c) A person who is not a citizen of the United States or an alien  
40 lawfully admitted for permanent residence in the United States;

41 (d) 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 an alien 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 aliens 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 (e) A person who shall have had any registration or license issued  
5 under this chapter revoked for cause, until the expiration of two years  
6 from the date of such revocation;

7 (f) A person not registered or licensed under the provisions of this  
8 chapter, who has been convicted of a violation of this chapter, until  
9 the expiration of two years from the date of such conviction; or

10 (g) A corporation or partnership, if any officer and director or any  
11 partner, while not licensed under the provisions of this chapter, has  
12 been convicted of a violation of this chapter, or has had a registration  
13 or license issued under this chapter revoked for cause, until the expi-  
14 ration of two years from the date of such conviction or revocation.

15 2. Except as may otherwise be provided for in regulation, it shall be  
16 unlawful for any police commissioner, police inspector, captain,  
17 sergeant, roundsman, patrolman or other police official or subordinate  
18 of any police department in the state, to be either directly or indi-  
19 rectly interested in the cultivation, processing, distribution, or sale  
20 of cannabis products or to offer for sale, or recommend to any regis-  
21 tered organization or licensee any cannabis products. A person may not  
22 be denied any registration or license granted under the provisions of  
23 this chapter solely on the grounds of being the spouse of a public serv-  
24 ant described in this section. The solicitation or recommendation made  
25 to any registered organization or licensee, to purchase any cannabis  
26 products by any police official or subordinate as hereinabove described,  
27 shall be presumptive evidence of the interest of such official or subor-  
28 dinate in the cultivation, processing, distribution, or sale of cannabis  
29 products.

30 3. No elective village officer shall be subject to the limitations set  
31 forth in subdivision two of this section unless such elective village  
32 officer shall be assigned duties directly relating to the operation or  
33 management of the police department.

34 § 141. Access to criminal history information through the division of  
35 criminal justice services. In connection with the administration of  
36 this chapter, the executive director is authorized to request, receive  
37 and review criminal history information through the division of criminal  
38 justice services with respect to any person seeking a registration,  
39 license, permit or authorization to cultivate, process, distribute or  
40 sell medical cannabis, adult use cannabis or hemp extract. At the execu-  
41 tive director's request, each person, member, principal and/or officer  
42 of the applicant shall submit to the office his or her fingerprints in  
43 such form and in such manner as specified by the division, for the  
44 purpose of conducting a criminal history search and returning a report  
45 thereon in accordance with the procedures and requirements established  
46 by the division pursuant to the provisions of article thirty-five of the  
47 executive law, which shall include the payment of the prescribed proc-  
48 essing fees for the cost of the division's full search and retain proce-  
49 dures and a national criminal history record check. The executive direc-  
50 tor, or his or her designee, shall submit such fingerprints and the  
51 processing fee to the division. The division shall forward to the execu-  
52 tive director a report with respect to the applicant's previous criminal  
53 history, if any, or a statement that the applicant has no previous crim-  
54 inal history according to its files. Fingerprints submitted to the divi-  
55 sion pursuant to this subdivision may also be submitted to the federal  
56 bureau of investigation for a national criminal history record check. If

1 additional copies of fingerprints are required, the applicant shall  
2 furnish them upon request.

3 § 142. Severability. If any provision of this chapter or application  
4 thereof to any person or circumstances is held invalid, such invalidity  
5 shall not affect other provisions or applications of this chapter that  
6 can be given effect without the invalid provision or application, and to  
7 this end the provisions of this chapter are declared severable.

8 § 3. Section 3302 of the public health law, as added by chapter 878 of  
9 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and  
10 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,  
11 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,  
12 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39  
13 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of  
14 subdivision 20, the opening paragraph of subdivision 22 and subdivision  
15 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as  
16 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-  
17 vision 41 as added by section 6 of part A of chapter 447 of the laws of  
18 2012, and subdivisions 42 and 43 as added by section 13 of part D of  
19 chapter 60 of the laws of 2014, is amended to read as follows:

20 § 3302. Definitions of terms of general use in this article. Except  
21 where different meanings are expressly specified in subsequent  
22 provisions of this article, the following terms have the following mean-  
23 ings:

24 1. "Addict" means a person who habitually uses a controlled substance  
25 for a non-legitimate or unlawful use, and who by reason of such use is  
26 dependent thereon.

27 2. "Administer" means the direct application of a controlled  
28 substance, whether by injection, inhalation, ingestion, or any other  
29 means, to the body of a patient or research subject.

30 3. "Agent" means an authorized person who acts on behalf of or at the  
31 direction of a manufacturer, distributor, or dispenser. No person may be  
32 authorized to so act if under title VIII of the education law such  
33 person would not be permitted to engage in such conduct. It does not  
34 include a common or contract carrier, public warehouseman, or employee  
35 of the carrier or warehouseman when acting in the usual and lawful  
36 course of the carrier's or warehouseman's business.

37 4. ["Concentrated Cannabis" means

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

40 (b) a material, preparation, mixture, compound or other substance  
41 which contains more than two and one-half percent by weight of delta-9  
42 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering  
43 system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) mono-  
44 terpene numbering system.

45 5.] "Controlled substance" means a substance or substances listed in  
46 section thirty-three hundred six of this [chapter] title.

47 [6.] 5. "Commissioner" means commissioner of health of the state of  
48 New York.

49 [7.] 6. "Deliver" or "delivery" means the actual, constructive or  
50 attempted transfer from one person to another of a controlled substance,  
51 whether or not there is an agency relationship.

52 [8.] 7. "Department" means the department of health of the state of  
53 New York.

54 [9.] 8. "Dispense" means to deliver a controlled substance to an ulti-  
55 mate user or research subject by lawful means, including by means of the

1 internet, and includes the packaging, labeling, or compounding necessary  
2 to prepare the substance for such delivery.

3 [10.] 9. "Distribute" means to deliver a controlled substance, includ-  
4 ing by means of the internet, other than by administering or dispensing.

5 [11.] 10. "Distributor" means a person who distributes a controlled  
6 substance.

7 [12.] 11. "Diversion" means manufacture, possession, delivery or use  
8 of a controlled substance by a person or in a manner not specifically  
9 authorized by law.

10 [13.] 12. "Drug" means

11 (a) substances recognized as drugs in the official United States Phar-  
12 macopoeia, official Homeopathic Pharmacopoeia of the United States, or  
13 official National Formulary, or any supplement to any of them;

14 (b) substances intended for use in the diagnosis, cure, mitigation,  
15 treatment, or prevention of disease in man or animals; and

16 (c) substances (other than food) intended to affect the structure or a  
17 function of the body of man or animal. It does not include devices or  
18 their components, parts, or accessories.

19 [14.] 13. "Federal agency" means the Drug Enforcement Administration,  
20 United States Department of Justice, or its successor agency.

21 [15.] 14. "Federal controlled substances act" means the Comprehensive  
22 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and  
23 any act or acts amendatory or supplemental thereto or regulations  
24 promulgated thereunder.

25 [16.] 15. "Federal registration number" means such number assigned by  
26 the Federal agency to any person authorized to manufacture, distribute,  
27 sell, dispense or administer controlled substances.

28 [17.] 16. "Habitual user" means any person who is, or by reason of  
29 repeated use of any controlled substance for non-legitimate or unlawful  
30 use is in danger of becoming, dependent upon such substance.

31 [18.] 17. "Institutional dispenser" means a hospital, veterinary  
32 hospital, clinic, dispensary, maternity home, nursing home, mental  
33 hospital or similar facility approved and certified by the department as  
34 authorized to obtain controlled substances by distribution and to  
35 dispense and administer such substances pursuant to the order of a prac-  
36 titioner.

37 [19.] 18. "License" means a written authorization issued by the  
38 department or the New York state department of education permitting  
39 persons to engage in a specified activity with respect to controlled  
40 substances.

41 [20.] 19. "Manufacture" means the production, preparation, propa-  
42 gation, compounding, cultivation, conversion or processing of a  
43 controlled substance, either directly or indirectly or by extraction  
44 from substances of natural origin, or independently by means of chemical  
45 synthesis, or by a combination of extraction and chemical synthesis, and  
46 includes any packaging or repackaging of the substance or labeling or  
47 relabeling of its container, except that this term does not include the  
48 preparation, compounding, packaging or labeling of a controlled  
49 substance:

50 (a) by a practitioner as an incident to his administering or dispens-  
51 ing of a controlled substance in the course of his professional prac-  
52 tice; or

53 (b) by a practitioner, or by his authorized agent under his super-  
54 vision, for the purpose of, or as an incident to, research, teaching, or  
55 chemical analysis and not for sale; or

1 (c) by a pharmacist as an incident to his dispensing of a controlled  
2 substance in the course of his professional practice.

3 [21. "Marihuana" means all parts of the plant of the genus Cannabis,  
4 whether growing or not; the seeds thereof; the resin extracted from any  
5 part of the plant; and every compound, manufacture, salt, derivative,  
6 mixture, or preparation of the plant, its seeds or resin. It does not  
7 include the mature stalks of the plant, fiber produced from the stalks,  
8 oil or cake made from the seeds of the plant, any other compound, manu-  
9 facture, salt, derivative, mixture, or preparation of the mature stalks  
10 (except the resin extracted therefrom), fiber, oil, or cake, or the  
11 sterilized seed of the plant which is incapable of germination.

12 22.] 20. "Narcotic drug" means any of the following, whether produced  
13 directly or indirectly by extraction from substances of vegetable  
14 origin, or independently by means of chemical synthesis, or by a combi-  
15 nation of extraction and chemical synthesis:

16 (a) opium and opiate, and any salt, compound, derivative, or prepara-  
17 tion of opium or opiate;

18 (b) any salt, compound, isomer, derivative, or preparation thereof  
19 which is chemically equivalent or identical with any of the substances  
20 referred to in [subdivision] paragraph (a) of this subdivision, but not  
21 including the isoquinoline alkaloids of opium;

22 (c) opium poppy and poppy straw.

23 [23.] 21. "Opiate" means any substance having an addiction-forming or  
24 addiction-sustaining liability similar to morphine or being capable of  
25 conversion into a drug having addiction-forming or addiction-sustaining  
26 liability. It does not include, unless specifically designated as  
27 controlled under section [3306] thirty-three hundred six of this [arti-  
28 cle] title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and  
29 its salts (dextromethorphan). It does include its racemic and levorota-  
30 tory forms.

31 [24.] 22. "Opium poppy" means the plant of the species *Papaver*  
32 *somniferum* L., except its seeds.

33 [25.] 23. "Person" means individual, institution, corporation, govern-  
34 ment or governmental subdivision or agency, business trust, estate,  
35 trust, partnership or association, or any other legal entity.

36 [26.] 24. "Pharmacist" means any person licensed by the state depart-  
37 ment of education to practice pharmacy.

38 [27.] 25. "Pharmacy" means any place registered as such by the New  
39 York state board of pharmacy and registered with the Federal agency  
40 pursuant to the federal controlled substances act.

41 [28.] 26. "Poppy straw" means all parts, except the seeds, of the  
42 opium poppy, after mowing.

43 [29.] 27. "Practitioner" means:

44 A physician, dentist, podiatrist, veterinarian, scientific investi-  
45 gator, or other person licensed, or otherwise permitted to dispense,  
46 administer or conduct research with respect to a controlled substance in  
47 the course of a licensed professional practice or research licensed  
48 pursuant to this article. Such person shall be deemed a "practitioner"  
49 only as to such substances, or conduct relating to such substances, as  
50 is permitted by his license, permit or otherwise permitted by law.

51 [30.] 28. "Prescribe" means a direction or authorization, by  
52 prescription, permitting an ultimate user lawfully to obtain controlled  
53 substances from any person authorized by law to dispense such  
54 substances.



1 [31.] 29. "Prescription" shall mean an official New York state  
2 prescription, an electronic prescription, an oral prescription[, ] or an  
3 out-of-state prescription[, or any one].

4 [32.] 30. "Sell" means to sell, exchange, give or dispose of to anothe-  
5 er, or offer or agree to do the same.

6 [33.] 31. "Ultimate user" means a person who lawfully obtains and  
7 possesses a controlled substance for his own use or the use by a member  
8 of his household or for an animal owned by him or in his custody. It  
9 shall also mean and include a person designated, by a practitioner on a  
10 prescription, to obtain such substance on behalf of the patient for whom  
11 such substance is intended.

12 [34.] 32. "Internet" means collectively computer and telecommuni-  
13 cations facilities which comprise the worldwide network of networks that  
14 employ a set of industry standards and protocols, or any predecessor or  
15 successor protocol to such protocol, to exchange information of all  
16 kinds. "Internet," as used in this article, also includes other  
17 networks, whether private or public, used to transmit information by  
18 electronic means.

19 [35.] 33. "By means of the internet" means any sale, delivery,  
20 distribution, or dispensing of a controlled substance that uses the  
21 internet, is initiated by use of the internet or causes the internet to  
22 be used.

23 [36.] 34. "Online dispenser" means a practitioner, pharmacy, or person  
24 in the United States that sells, delivers or dispenses, or offers to  
25 sell, deliver, or dispense, a controlled substance by means of the  
26 internet.

27 [37.] 35. "Electronic prescription" means a prescription issued with  
28 an electronic signature and transmitted by electronic means in accord-  
29 ance with regulations of the commissioner and the commissioner of educa-  
30 tion and consistent with federal requirements. A prescription generated  
31 on an electronic system that is printed out or transmitted via facsimile  
32 is not considered an electronic prescription and must be manually  
33 signed.

34 [38.] 36. "Electronic" means of or relating to technology having elec-  
35 trical, digital, magnetic, wireless, optical, electromagnetic or similar  
36 capabilities. "Electronic" shall not include facsimile.

37 [39.] 37. "Electronic record" means a paperless record that is  
38 created, generated, transmitted, communicated, received or stored by  
39 means of electronic equipment and includes the preservation, retrieval,  
40 use and disposition in accordance with regulations of the commissioner  
41 and the commissioner of education and in compliance with federal law and  
42 regulations.

43 [40.] 38. "Electronic signature" means an electronic sound, symbol, or  
44 process, attached to or logically associated with an electronic record  
45 and executed or adopted by a person with the intent to sign the record,  
46 in accordance with regulations of the commissioner and the commissioner  
47 of education.

48 [41.] 39. "Registry" or "prescription monitoring program registry"  
49 means the prescription monitoring program registry established pursuant  
50 to section thirty-three hundred forty-three-a of this article.

51 [42.] 40. "Compounding" means the combining, admixing, mixing, dilut-  
52 ing, pooling, reconstituting, or otherwise altering of a drug or bulk  
53 drug substance to create a drug with respect to an outsourcing facility  
54 under section 503B of the federal Food, Drug and Cosmetic Act and  
55 further defined in this section.

56 [43.] 41. "Outsourcing facility" means a facility that:

1 (a) is engaged in the compounding of sterile drugs as defined in  
2 section sixty-eight hundred two of the education law;

3 (b) is currently registered as an outsourcing facility pursuant to  
4 article one hundred thirty-seven of the education law; and

5 (c) complies with all applicable requirements of federal and state  
6 law, including the Federal Food, Drug and Cosmetic Act.

7 Notwithstanding any other provision of law to the contrary, when an  
8 outsourcing facility distributes or dispenses any drug to any person  
9 pursuant to a prescription, such outsourcing facility shall be deemed to  
10 be providing pharmacy services and shall be subject to all laws, rules  
11 and regulations governing pharmacies and pharmacy services.

12 § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,  
13 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of  
14 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,  
15 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of  
16 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of  
17 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the  
18 laws of 2006, are amended to read as follows:

19 (13) [Marihuana.

20 (14)] Mescaline.

21 [(15)] (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-  
22 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

23 [(16)] (15) Peyote. Meaning all parts of the plant presently classi-  
24 fied botanically as Lophophora williamsii Lemaire, whether growing or  
25 not, the seeds thereof, any extract from any part of such plant, and  
26 every compound, manufacture, salts, derivative, mixture, or preparation  
27 of such plant, its seeds or extracts.

28 [(17)] (16) N-ethyl-3-piperidyl benzilate.

29 [(18)] (17) N-methyl-3-piperidyl benzilate.

30 [(19)] (18) Psilocybin.

31 [(20)] (19) Psilocyn.

32 [(21)] (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not  
33 derived from the cannabis plant that are equivalents of the substances  
34 contained in the plant, or in the resinous extractives of cannabis, sp.  
35 and/or synthetic substances, derivatives, and their isomers with similar  
36 chemical structure and pharmacological activity such as the following:

37 [/\] delta 1 cis or trans tetrahydrocannabinol, and their optical  
38 isomers

39 [/\] delta 6 cis or trans tetrahydrocannabinol, and their optical  
40 isomers

41 [/\] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical  
42 isomers (since nomenclature of these substances is not internationally  
43 standardized, compounds of these structures, regardless of numerical  
44 designation of atomic positions covered).

45 [(22)] (21) Ethylamine analog of phencyclidine. Some trade or other  
46 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-  
47 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

48 [(23)] (22) Pyrrolidine analog of phencyclidine. Some trade or other  
49 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

50 [(24)] (23) Thiophene analog of phencyclidine. Some trade or other  
51 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of  
52 phencyclidine, TPCP, TCP.

53 [(25)] (24) 3,4-methylenedioxyamphetamine (MDMA).

54 [(26)] (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as  
55 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,  
56 MDE, MDEA.

1 [(27)] (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as  
2 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and  
3 N-hydroxy MDA.

4 [(28)] (27) 1-{1- (2-thienyl) cyclohexyl} pyrrolidine. Some other  
5 names: TCPY.

6 [(29)] (28) Alpha-ethyltryptamine. Some trade or other names: etryp-  
7 tamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine; 3- (2-aminobutyl)  
8 indole; Alpha-ET or AET.

9 [(30)] (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other  
10 names: DOET.

11 [(31)] (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other  
12 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl  
13 DOB; 2C-B, Nexus.

14 [(32)] (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its  
15 optical isomers, salts and salts of isomers.

16 § 5. Section 3382 of the public health law is REPEALED.

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

18 § 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs  
19 (a) and (b) of subdivision 11 of section 1311 of the civil practice law  
20 and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added  
21 by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdi-  
22 vision 11 as amended by section 47 of part A1 of chapter 56 of the laws  
23 of 2010, are amended to read as follows:

24 (d) In a forfeiture action commenced by a claiming authority against a  
25 defendant, the following rebuttable presumption shall apply: all curren-  
26 cy or negotiable instruments payable to the bearer shall be presumed to  
27 be the proceeds of a pre-conviction forfeiture crime when such currency  
28 or negotiable instruments are (i) found in close proximity to a  
29 controlled substance unlawfully possessed by the defendant in an amount  
30 sufficient to constitute a violation of section 220.18 or 220.21 of the  
31 penal law, or (ii) found in close proximity to any quantity of a  
32 controlled substance [or marihuana] unlawfully possessed by such defend-  
33 ant in a room, other than a public place, under circumstances evincing  
34 an intent to unlawfully mix, compound, distribute, package or otherwise  
35 prepare for sale such controlled substance [or marihuana].

36 3-a. Conviction of a person in a criminal action upon an accusatory  
37 instrument which includes one or more of the felonies specified in  
38 subdivision four-b of section thirteen hundred ten of this article, of  
39 any felony other than such felonies, shall not preclude a defendant, in  
40 any subsequent proceeding under this article where that conviction is at  
41 issue, from adducing evidence that the conduct underlying the conviction  
42 would not establish the elements of any of the felonies specified in  
43 such subdivision other than the one to which the criminal defendant pled  
44 guilty. If the defendant does adduce such evidence, the burden shall be  
45 upon the claiming authority to prove, by clear and convincing evidence,  
46 that the conduct underlying the criminal conviction would establish the  
47 elements of the felony specified in such subdivision. Nothing contained  
48 in this subdivision shall affect the validity of a settlement of any  
49 forfeiture action negotiated between the claiming authority and a crimi-  
50 nal defendant contemporaneously with the taking of a plea of guilty in a  
51 criminal action to any felony defined in article two hundred twenty [or  
52 section 221.30 or 221.55] of the penal law, or to a felony conspiracy to  
53 commit the same.

54 (a) Any stipulation or settlement agreement between the parties to a  
55 forfeiture action shall be filed with the clerk of the court in which  
56 the forfeiture action is pending. No stipulation or settlement agreement

1 shall be accepted for filing unless it is accompanied by an affidavit  
2 from the claiming authority that written notice of the stipulation or  
3 settlement agreement, including the terms of such, has been given to the  
4 office of victim services, the state division of criminal justice  
5 services[, and in the case of a forfeiture based on a felony defined in  
6 article two hundred twenty or section 221.30 or 221.55 of the penal law,  
7 to the state division of substance abuse services].

8 (b) No judgment or order of forfeiture shall be accepted for filing  
9 unless it is accompanied by an affidavit from the claiming authority  
10 that written notice of judgment or order, including the terms of such,  
11 has been given to the office of victim services, the state division of  
12 criminal justice services[, and in the case of a forfeiture based on a  
13 felony defined in article two hundred twenty or section 221.30 or 221.55  
14 of the penal law, to the state division of substance abuse services].

15 § 8. Subdivision 1 of section 3397-b of the public health law, as  
16 added by chapter 810 of the laws of 1980, is amended to read as follows:

17 1. ["Marijuana"] "Cannabis" means [marijuana] cannabis as defined in  
18 [section thirty-three hundred two of this chapter] subdivision six of  
19 section 220.00 of the penal law and shall also include tetrahydrocanna-  
20 binols or a chemical derivative of tetrahydrocannabinol.

21 § 9. Section 114-a of the vehicle and traffic law, as added by chapter  
22 163 of the laws of 1973, is amended to read as follows:

23 § 114-a. Drug. The term "drug" when used in this chapter, means and  
24 includes any substance listed in section thirty-three hundred six of the  
25 public health law and any substance or combination of substances that  
26 impair physical and mental abilities.

27 § 10. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,  
28 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision  
29 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as  
30 amended by chapter 664 of the laws of 1985, are amended and two new  
31 subdivisions 21 and 22 are added to read as follows:

32 5. "Controlled substance" means any substance listed in schedule I,  
33 II, III, IV or V of section thirty-three hundred six of the public  
34 health law other than [marihuana] cannabis, but including concentrated  
35 cannabis as defined in [paragraph (a) of subdivision four of section  
36 thirty-three hundred two of such law] subdivision twenty-one of this  
37 section.

38 6. ["Marihuana"] "Cannabis" means ["marihuana" or "concentrated canna-  
39 bis" as those terms are defined in section thirty-three hundred two of  
40 the public health law] all parts of the plant of the genus Cannabis,  
41 whether growing or not; the seeds thereof; the resin extracted from any  
42 part of the plant; and every compound, manufacture, salt, derivative,  
43 mixture, or preparation of the plant, its seeds or resin. It does not  
44 include the mature stalks of the plant, fiber produced from the stalks,  
45 oil or cake made from the seeds of the plant, any other compound, manu-  
46 facture, salt, derivative, mixture, or preparation of the mature stalks  
47 (except the resin extracted therefrom), fiber, oil, or cake, or the  
48 sterilized seed of the plant which is incapable of germination. It does  
49 not include all parts of the plant Cannabis sativa L., whether growing  
50 or not, having no more than three-tenths of one percent tetrahydrocanna-  
51 binol (THC).

52 9. "Hallucinogen" means any controlled substance listed in [schedule  
53 I(d)] paragraphs (5), [(18), (19), (20), (21) and (22)] (17), (18),  
54 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-  
55 three hundred six of the public health law.

56 21. "Concentrated cannabis" means:

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

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

8 22. "Cannabis products" means cannabis, concentrated cannabis, and  
9 cannabis-infused products containing concentrated cannabis and other  
10 ingredients.

11 § 11. Subdivision 4 of section 220.06 of the penal law, as amended by  
12 chapter 537 of the laws of 1998, is amended to read as follows:

13 4. one or more preparations, compounds, mixtures or substances  
14 containing concentrated cannabis as defined in [paragraph (a) of subdi-  
15 vision four of section thirty-three hundred two of the public health  
16 law] subdivision twenty-one of section 220.00 of this article and said  
17 preparations, compounds, mixtures or substances are of an aggregate  
18 weight of one-fourth ounce or more; or

19 § 12. Subdivision 10 of section 220.09 of the penal law, as amended by  
20 chapter 537 of the laws of 1998, is amended to read as follows:

21 10. one or more preparations, compounds, mixtures or substances  
22 containing concentrated cannabis as defined in [paragraph (a) of subdi-  
23 vision four of section thirty-three hundred two of the public health  
24 law] subdivision twenty-one of section 220.00 of this article and said  
25 preparations, compounds, mixtures or substances are of an aggregate  
26 weight of one ounce or more; or

27 § 13. Subdivision 3 of section 220.34 of the penal law, as amended by  
28 chapter 537 of the laws of 1998, is amended to read as follows:

29 3. concentrated cannabis as defined in [paragraph (a) of subdivision  
30 four of section thirty-three hundred two of the public health law]  
31 subdivision twenty-one of section 220.00 of this article; or

32 § 14. Section 220.50 of the penal law, as amended by chapter 627 of  
33 the laws of 1990, is amended to read as follows:

34 § 220.50 Criminally using drug paraphernalia in the second degree.

35 A person is guilty of criminally using drug paraphernalia in the  
36 second degree when he knowingly possesses or sells:

37 1. Diluents, dilutants or adulterants, including but not limited to,  
38 any of the following: quinine hydrochloride, mannitol, mannite, lactose  
39 or dextrose, adapted for the dilution of narcotic drugs or stimulants  
40 under circumstances evincing an intent to use, or under circumstances  
41 evincing knowledge that some person intends to use, the same for  
42 purposes of unlawfully mixing, compounding, or otherwise preparing any  
43 narcotic drug or stimulant, other than cannabis or concentrated  
44 cannabis; or

45 2. Gelatine capsules, glassine envelopes, vials, capsules or any other  
46 material suitable for the packaging of individual quantities of narcotic  
47 drugs or stimulants under circumstances evincing an intent to use, or  
48 under circumstances evincing knowledge that some person intends to use,  
49 the same for the purpose of unlawfully manufacturing, packaging or  
50 dispensing of any narcotic drug or stimulant, other than cannabis or  
51 concentrated cannabis; or

52 3. Scales and balances used or designed for the purpose of weighing or  
53 measuring controlled substances, under circumstances evincing an intent  
54 to use, or under circumstances evincing knowledge that some person  
55 intends to use, the same for purpose of unlawfully manufacturing, pack-

1 aging or dispensing of any narcotic drug or stimulant, other than canna-  
2 bis or concentrated cannabis.

3 Criminally using drug paraphernalia in the second degree is a class A  
4 misdemeanor.

5 § 15. Article 221 of the penal law is REPEALED.

6 § 16. The penal law is amended by adding a new article 222 to read as  
7 follows:

8 ARTICLE 222

9 CANNABIS

10 Section 222.00 Cannabis; definitions.

11 222.05 Personal use of cannabis.

12 222.10 Unlawful cultivation of cannabis.

13 222.15 Licensing of cannabis production and distribution.

14 222.20 Unlawful possession of cannabis.

15 222.25 Unlicensed sale of cannabis in the second degree.

16 222.30 Unlicensed sale of cannabis in the first degree.

17 222.35 Sale of cannabis to a person less than twenty-one years  
18 of age in the second degree.

19 222.40 Sale of cannabis to a person less than twenty-one years  
20 of age in the first degree.

21 § 222.00 Cannabis; definitions.

22 1. "Cannabis" means all parts of the plant of the genus Cannabis,  
23 whether growing or not; the seeds thereof; the resin extracted from any  
24 part of the plant; and every compound, manufacture, salt, derivative,  
25 mixture, or preparation of the plant, its seeds or resin. It does not  
26 include the mature stalks of the plant, fiber produced from the stalks,  
27 oil or cake made from the seeds of the plant, any other compound, manu-  
28 facture, salt, derivative, mixture, or preparation of the mature stalks  
29 (except the resin extracted therefrom), fiber, oil, or cake, or the  
30 sterilized seed of the plant which is incapable of germination. It does  
31 not include all parts of the plant Cannabis sativa L., whether growing  
32 or not, having no more than three-tenths of one percent tetrahydrocanna-  
33 binol (THC).

34 2. "Concentrated cannabis" means:

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

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

42 3. "Cannabis-infused products" means products that have been manufac-  
43 tured and contain either cannabis or concentrated cannabis and other  
44 ingredients that are intended for use or consumption.

45 4. "Mature cannabis plant" means a cannabis plant with observable  
46 flowers or buds.

47 5. For the purposes of this article, "sale" shall mean to sell,  
48 exchange or dispose of for compensation. "Sale" shall not include the  
49 transfer of cannabis, concentrated cannabis or cannabis-infused product  
50 between persons twenty-one years of age or older without compensation in  
51 the quantities authorized in paragraph (b) of subdivision one of section  
52 222.05 of this article.

53 § 222.05 Personal use of cannabis.

54 Notwithstanding any other provision of law to the contrary:

55 1. The following acts are lawful for persons twenty-one years of age  
56 or older: (a) possessing, displaying, purchasing, obtaining, or trans-

1 porting up to three ounces of cannabis and up to twenty-four grams of  
2 concentrated cannabis, or equivalent amount of cannabis-infused  
3 products;

4 (b) transferring, without compensation, to a person twenty-one years  
5 of age or older, up to three ounces of cannabis and up to twenty-four  
6 grams of concentrated cannabis, or equivalent amount of cannabis-infused  
7 products;

8 (c) using, smoking, ingesting, or consuming cannabis, concentrated  
9 cannabis or cannabis-infused products unless otherwise prohibited by  
10 state law or regulation;

11 (d) possessing, using, displaying, purchasing, obtaining, manufactur-  
12 ing, transporting or giving to any person twenty-one years of age or  
13 older cannabis paraphernalia or concentrated cannabis paraphernalia; and

14 (e) assisting another person who is twenty-one years of age or older,  
15 or allowing property to be used, in any of the acts described in para-  
16 graphs (a) through (d) of this subdivision.

17 2. Cannabis, concentrated cannabis, cannabis-infused products, canna-  
18 bis paraphernalia or concentrated cannabis paraphernalia involved in any  
19 way with conduct deemed lawful by this section are not contraband nor  
20 subject to seizure or forfeiture of assets under article four hundred  
21 eighty of this chapter, section thirteen hundred eleven of the civil  
22 practice law and rules, or other applicable law, and no conduct deemed  
23 lawful by this section shall constitute the basis for approach, search,  
24 seizure, arrest or detention.

25 3. Except as provided in subdivision four of this section, none of the  
26 following shall, individually or in combination with each other, consti-  
27 tute reasonable suspicion of a crime or be used as evidence of probable  
28 cause in any criminal proceeding against a defendant twenty-one years of  
29 age or older:

30 (a) the odor of cannabis or of burnt cannabis;

31 (b) the possession of or the suspicion of possession of cannabis,  
32 concentrated cannabis or cannabis-infused products in the amounts  
33 authorized in this section;

34 (c) the possession of multiple containers of cannabis without evidence  
35 of possession of more than three ounces of cannabis, twenty-four grams  
36 of concentrated cannabis or the equivalent amount of cannabis-infused  
37 products; or

38 (d) the presence of cash or currency in proximity to cannabis, concen-  
39 trated cannabis or cannabis-infused products.

40 4. Subdivision three of this section shall not apply when a law  
41 enforcement officer is investigating: (a) an alleged offense pursuant to  
42 section 222.20, 222.25, 222.30, 222.35 or 222.40 of this article; or (b)  
43 whether a person is operating or in physical control of a vehicle or  
44 watercraft while intoxicated, under the influence of, or impaired by  
45 alcohol or a drug or any combination thereof in violation of article  
46 thirty-one of the vehicle and traffic law.

47 5. (a) Nothing in this section shall be construed to permit any person  
48 to:

49 (i) smoke cannabis in public;

50 (ii) smoke cannabis products in a location where smoking tobacco is  
51 prohibited pursuant to section thirteen hundred ninety-nine-o of the  
52 public health law;

53 (iii) possess, smoke or ingest cannabis products in or upon the  
54 grounds of any school property used for school purposes which is owned  
55 by or leased to any elementary or secondary school or school board while  
56 children are present; or



1 (iv) smoke or ingest cannabis products while driving, operating a  
2 motor vehicle, boat, vessel, aircraft, or other vehicle used for trans-  
3 portation.

4 (b) For purposes of this section:

5 (i) "Smoke" means to inhale, exhale, burn, or carry any lighted or  
6 heated device or pipe, or any other lighted or heated cannabis or  
7 concentrated cannabis product intended for inhalation, whether natural  
8 or synthetic, in any manner or in any form.

9 (ii) "Smoke" does not include the use of an electronic smoking device  
10 that creates an aerosol or vapor, unless local or state statutes extend  
11 prohibitions on smoking to electronic smoking devices.

12 (c) Violations of the restrictions under this subdivision are subject  
13 to a fine not exceeding twenty-five dollars or an appropriate amount of  
14 community service not to exceed twenty hours.

15 § 222.10 Unlawful cultivation of cannabis.

16 A person is guilty of unlawful cultivation of cannabis when he or she  
17 knowingly and unlawfully plants, cultivates, harvests, dries, or proc-  
18 esses cannabis on public lands or otherwise in violation of article six  
19 of the cannabis law.

20 Unlawful cultivation of cannabis is a class B misdemeanor.

21 § 222.15 Licensing of cannabis production and distribution.

22 The criminal penalties pursuant to the provisions of this article for  
23 possessing, manufacturing, transporting, distributing, selling or trans-  
24 ferring cannabis, concentrated cannabis or cannabis-infused products  
25 shall not apply to any person engaged in such activity in compliance  
26 with the cannabis law.

27 § 222.20 Unlawful possession of cannabis.

28 A person is guilty of unlawful possession of cannabis when he or she  
29 knowingly and unlawfully possesses:

30 1. cannabis and such cannabis weighs more than three ounces; or

31 2. concentrated cannabis and such concentrated cannabis weighs more  
32 than twenty-four grams; or

33 3. equivalent amount of cannabis-infused products.

34 Unlawful possession of cannabis is a violation punishable by a fine of  
35 not more than one hundred twenty-five dollars.

36 § 222.25 Unlicensed sale of cannabis in the second degree.

37 1. A person is guilty of unlicensed sale of cannabis in the second  
38 degree when he or she knowingly and unlawfully sells up to three ounces  
39 of cannabis, or twenty-four grams of concentrated cannabis or equivalent  
40 amount of cannabis-infused products.

41 2. A violation of this section is subject to the following penalties,  
42 as applicable:

43 (a) violation punishable by a fine of not more than one hundred twen-  
44 ty-five dollars;

45 (b) if, within the previous five years, the defendant was convicted of  
46 the crime of unlicensed sale of cannabis in the first degree, sale of  
47 cannabis to a person less than twenty-one years of age in the second  
48 degree, sale of cannabis to a person less than twenty-one years of age  
49 in the first degree or this section, then a violation punishable by a  
50 fine of not more than two hundred fifty dollars for a second such  
51 offense; or

52 (c) if, within the previous five years, the defendant was convicted of  
53 the crime of unlicensed sale of cannabis in the first degree, sale of  
54 cannabis to a person less than twenty-one years of age in the second  
55 degree, sale of cannabis to a person less than twenty-one years of age





1 in the first degree or this section, then a class B misdemeanor for such  
2 third or subsequent offense.

3 § 222.30 Unlicensed sale of cannabis in the first degree.

4 1. A person is guilty of unlicensed sale of cannabis in the first  
5 degree when he or she knowingly and unlawfully sells more than three  
6 ounces of cannabis, more than twenty-four grams of concentrated cannabis  
7 or the equivalent amount of cannabis-infused products.

8 2. A violation of this section is subject to the following penalties,  
9 as applicable:

10 (a) a violation punishable by a fine of not more than two hundred  
11 fifty dollars;

12 (b) if, within the previous five years, the defendant was convicted of  
13 the crime of unlicensed sale of cannabis in the second degree, sale of  
14 cannabis to a person less than twenty-one years of age in the second  
15 degree, sale of cannabis to a person less than twenty-one years of age  
16 in the first degree or this section, then a violation punishable by a  
17 fine of not more than five hundred dollars for such second offense; or

18 (c) if, within the previous five years, the defendant was convicted of  
19 the crime of unlicensed sale of cannabis in the second degree, sale of  
20 cannabis to a person less than twenty-one years of age in the second  
21 degree, sale of cannabis to a person less than twenty-one years of age  
22 in the first degree or this section, then a class A misdemeanor for such  
23 third or subsequent offense.

24 § 222.35 Sale of cannabis to a person less than twenty-one years of age  
25 in the second degree.

26 A person twenty-one years of age or older is guilty of the sale of  
27 cannabis to a person less than twenty-one years of age in the second  
28 degree when, being twenty-one years of age or older, he or she knowingly  
29 and unlawfully sells cannabis, concentrated cannabis or cannabis-infused  
30 products to a person less than twenty-one years of age.

31 Sale of cannabis to a person under twenty-one years of age in the  
32 second degree is a class A misdemeanor.

33 § 222.40 Sale of cannabis to a person less than twenty-one years of age  
34 in the first degree.

35 A person twenty-one years of age and older is guilty of the sale of  
36 cannabis to a person under twenty-one years of age in the first degree  
37 when, being twenty-one years of age or older, he or she knowingly and  
38 unlawfully sells more than three ounces of cannabis, more than twenty-  
39 four grams of concentrated cannabis or the equivalent amount of canna-  
40 bis-infused products.

41 Sale of cannabis to a person less than twenty-one years of age in the  
42 first degree is a class E felony.

43 § 17. Subdivision 8 of section 1399-n of the public health law, as  
44 amended by chapter 13 of the laws of 2003, is amended to read as  
45 follows:

46 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or  
47 any other matter or substance which contains tobacco or cannabis;  
48 provided that it does not include the use of an electronic smoking  
49 device that creates an aerosol or vapor, unless local or state statutes  
50 extend prohibitions on smoking to electronic smoking devices.

51 § 18. Section 1.20 of the criminal procedure law is amended by adding  
52 a new subdivision 45 to read as follows:

53 45. "Expunge" means, where an arrest and any enforcement activity  
54 connected with that arrest, including prosecution and any disposition in  
55 any New York state court, is deemed a nullity and the accused is  
56 restored, in contemplation of the law, to the status such individual



1 occupied before the arrest and/or prosecution; that records of such  
2 arrest, prosecution and/or disposition shall be marked as expunged or  
3 shall be destroyed as set forth in section 160.50 of this chapter.  
4 Neither the arrest nor prosecution and/or disposition, if any, of a  
5 matter deemed a nullity shall operate as a disqualification of any  
6 person so accused to pursue or engage in any lawful activity, occupa-  
7 tion, profession or calling. Except where specifically required or  
8 permitted by statute or upon specific authorization of a superior court,  
9 no such person shall be required to divulge information pertaining to  
10 the arrest, prosecution and/or disposition of such a matter.

11 § 19. Subdivision 1 of section 160.50 of the criminal procedure law,  
12 as amended by chapter 169 of the laws of 1994, paragraph (d) as amended  
13 by chapter 449 of the laws of 2015, is amended and a new subdivision 1-a  
14 is added to read as follows:

15 1. Upon the termination of a criminal action or proceeding against a  
16 person in favor of such person, as defined in subdivision three of this  
17 section, unless the district attorney upon motion with not less than  
18 five days notice to such person or his or her attorney demonstrates to  
19 the satisfaction of the court that the interests of justice require  
20 otherwise, or the court on its own motion with not less than five days  
21 notice to such person or his or her attorney determines that the inter-  
22 ests of justice require otherwise and states the reasons for such deter-  
23 mination on the record, [the record of such action or proceeding shall  
24 be sealed and the clerk of the court wherein such criminal action or  
25 proceeding was terminated shall immediately notify the commissioner of  
26 the division of criminal justice services and the heads of all appropri-  
27 ate police departments and other law enforcement agencies that the  
28 action has been terminated in favor of the accused, and unless the court  
29 has directed otherwise, that the record of such action or proceeding  
30 shall be sealed. Upon receipt of notification of such termination and  
31 sealing] such action or proceeding shall be deemed a nullity and records  
32 of such action or proceeding expunged, and the clerk of the court where-  
33 in such criminal action or proceeding was terminated shall immediately  
34 notify the commissioner of the division of criminal justice services and  
35 the heads of all appropriate police departments and other law enforce-  
36 ment agencies that the action has been terminated in favor of the  
37 accused and deemed a nullity, and unless the court has directed other-  
38 wise, that the record of or relating to such action or proceeding shall  
39 be immediately expunged as follows:

40 (a) every photograph of such person and photographic plate or proof,  
41 and all palmprints and fingerprints, retina scans or DNA material taken  
42 or made of such person pursuant to the provisions of this article in  
43 regard to the action or proceeding terminated, [except a dismissal  
44 pursuant to section 170.56 or 210.46 of this chapter,] and all dupli-  
45 cates and copies thereof, except a digital fingerprint image where  
46 authorized pursuant to paragraph (e) of this subdivision, shall forth-  
47 with be[, at the discretion of the recipient agency, either] destroyed  
48 [or returned to such person, or to the attorney who represented such  
49 person] at the time of the termination of the action or proceeding[, at  
50 the address given by such person or attorney during the action or  
51 proceeding,] by the division of criminal justice services and by any  
52 police department or law enforcement agency having any such photograph,  
53 photographic plate or proof, palmprint [or], fingerprints, retina scans  
54 or DNA material in its possession or under its control;

55 (b) any police department or law enforcement agency, including the  
56 division of criminal justice services, which transmitted or otherwise

1 forwarded to any agency of the United States or of any other state or of  
2 any other jurisdiction outside the state of New York copies of any such  
3 photographs, photographic plates or proofs, palmprints [and], finger-  
4 prints, retina scans or DNA material, including those relating to  
5 actions or proceedings which were dismissed pursuant to section 170.56  
6 or 210.46 of this [chapter] part, shall forthwith formally [request in]  
7 inform them in writing that [all such copies be destroyed or returned to  
8 the police department or law enforcement agency which transmitted or  
9 forwarded them, and, if returned, such department or agency shall, at  
10 its discretion, either destroy or return them as provided herein, except  
11 that those relating to dismissals pursuant to section 170.56 or 210.46  
12 of this chapter shall not be destroyed or returned by such department or  
13 agency] the matter has been expunged and request in writing that all  
14 such copies be destroyed;

15 (c) all official records and papers, including judgments and orders of  
16 a court but not including published court decisions or opinions or  
17 records and briefs on appeal, relating to the arrest or prosecution,  
18 including all duplicates and copies thereof, on file with the division  
19 of criminal justice services, any court, police agency, or prosecutor's  
20 office shall be [sealed and not made available to any person or public  
21 or private agency] marked as expunged by conspicuously indicating on the  
22 face of the record or at the beginning of the digitized file of the  
23 record that the record has been designated as expunged. Such records and  
24 papers shall be sealed and not be made available to any person, except  
25 the individual whose case has been deemed a nullity or their designated  
26 agent as set forth in paragraph (d) of this subdivision, or to any  
27 public or private agency;

28 (d) [such] records set forth in paragraph (c) of this subdivision  
29 shall be made available to the person accused or to such person's desig-  
30 nated agent, and shall be made available to (i) a prosecutor in any  
31 proceeding in which the accused has moved for an order pursuant to  
32 section 170.56 or 210.46 of this [chapter] part, or (ii) a law enforce-  
33 ment agency upon ex parte motion in any superior court, or in any  
34 district court, city court or the criminal court of the city of New York  
35 provided that such court originally sealed or expunged the record, if  
36 such agency demonstrates to the satisfaction of the court that justice  
37 requires that such records be made available to it, or (iii) any state  
38 or local officer or agency with responsibility for the issuance of  
39 licenses to possess guns, when the accused has made application for such  
40 a license, or (iv) the New York state department of corrections and  
41 community supervision when the accused is on parole supervision as a  
42 result of conditional release or a parole release granted by the New  
43 York state board of parole, and the arrest which is the subject of the  
44 inquiry is one which occurred while the accused was under such super-  
45 vision, or (v) any prospective employer of a police officer or peace  
46 officer as those terms are defined in subdivisions thirty-three and  
47 thirty-four of section 1.20 of this chapter, in relation to an applica-  
48 tion for employment as a police officer or peace officer; provided,  
49 however, that every person who is an applicant for the position of  
50 police officer or peace officer shall be furnished with a copy of all  
51 records obtained under this paragraph and afforded an opportunity to  
52 make an explanation thereto, or (vi) the probation department responsi-  
53 ble for supervision of the accused when the arrest which is the subject  
54 of the inquiry is one which occurred while the accused was under such  
55 supervision; and

1 (e) where fingerprints subject to the provisions of this section have  
2 been received by the division of criminal justice services and have been  
3 filed by the division as digital images, such images may be retained,  
4 provided that a fingerprint card of the individual is on file with the  
5 division which was not [sealed] destroyed pursuant to this section or  
6 section 160.55 of this article.

7 (1-a) Cases previously sealed pursuant to this section shall be deemed  
8 expunged, and digital records shall be so marked.

9 § 20. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50  
10 of the criminal procedure law, paragraphs (i) and (j) as added by chap-  
11 ter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of  
12 the laws of 1977 and as relettered by chapter 192 of the laws of 1980  
13 and such subdivision as renumbered by chapter 142 of the laws of 1991,  
14 are amended to read as follows:

15 (i) prior to the filing of an accusatory instrument in a local crimi-  
16 nal court against such person, the prosecutor elects not to prosecute  
17 such person. In such event, the prosecutor shall serve a certification  
18 of such disposition upon the division of criminal justice services and  
19 upon the appropriate police department or law enforcement agency which,  
20 upon receipt thereof, shall comply with the provisions of paragraphs  
21 (a), (b), (c) and (d) of subdivision one of this section in the same  
22 manner as is required thereunder with respect to an order of a court  
23 entered pursuant to said subdivision one[.]; or

24 (j) following the arrest of such person, the arresting police agency,  
25 prior to the filing of an accusatory instrument in a local criminal  
26 court but subsequent to the forwarding of a copy of the fingerprints of  
27 such person to the division of criminal justice services, elects not to  
28 proceed further. In such event, the head of the arresting police agency  
29 shall serve a certification of such disposition upon the division of  
30 criminal justice services which, upon receipt thereof, shall comply with  
31 the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of  
32 this section in the same manner as is required thereunder with respect  
33 to an order of a court entered pursuant to said subdivision one[.]; or

34 (k) (i) The accusatory instrument alleged a violation of article two  
35 hundred twenty or section 240.36 of the penal law, prior to the taking  
36 effect of article two hundred twenty-one of the penal law, or by the  
37 conviction of such person of a violation of [article two hundred twen-  
38 ty-one] section 221.45 of the penal law on or after the effective date  
39 of the chapter of the laws of two thousand nineteen that amended this  
40 paragraph or a violation of section 221.05, 221.10, 221.15, 221.20,  
41 221.25, 221.30, 221.35 or 221.40 of the penal law prior to the effective  
42 date of the chapter of the laws of two thousand nineteen that amended  
43 this paragraph; and (ii) the sole controlled substance involved is  
44 [marijuana; (iii) the conviction was only for a violation or violations;  
45 and (iv) at least three years have passed since the offense occurred]  
46 marihuana. No defendant shall be required or permitted to waive eligi-  
47 bility for sealing pursuant to this paragraph as part of a plea of guil-  
48 ty, sentence or any agreement related to a conviction for a violation of  
49 section 221.45 of the penal law. Any such waiver shall be deemed void  
50 and wholly unenforceable.

51 § 21. Subdivision 4 of section 160.50 of the criminal procedure law is  
52 REPEALED, and three new subdivisions 4, 5, and 6 are added to read as  
53 follows:

54 4. Where a criminal action or proceeding was terminated, as defined in  
55 paragraph (k) of subdivision three of this section, prior to the effec-  
56 tive date of this subdivision, such criminal action or proceeding shall

1 be automatically vacated and dismissed, and all records of such action  
2 or proceeding expunged as set forth in subdivision one of this section,  
3 and the matter terminated in favor of the accused and deemed a nullity,  
4 because the prior conviction is now legally invalid. OCA shall automat-  
5 ically notify the commissioner of the division of criminal justice  
6 services and the heads of all appropriate police departments and other  
7 law enforcement agencies that the prior conviction is now legally inval-  
8 id and that the action has been vacated, dismissed and expunged and thus  
9 terminated in favor of the accused. Upon receipt of notification of such  
10 vacatur, termination and expungement, all records relating to the crimi-  
11 nal action shall be expunged as described in subdivision one of this  
12 section.

13 5. In situations where automatic vacatur, dismissal, expungement and  
14 record destruction is required by subdivision four of this section but  
15 has not taken place, or where supporting court records cannot be located  
16 or have been destroyed, and an individual or their attorney presents to  
17 OCA fingerprint records from the New York state division of criminal  
18 justice services or a court disposition which indicate that a criminal  
19 action or proceeding against the applicant was terminated by a  
20 conviction for section 221.05, 221.10 221.15, 221.20, 221.25, 221.30,  
21 221.35, or 221.40 of the penal law in effect prior to the effective date  
22 of this subdivision, within thirty days of notice to OCA, the action  
23 shall forthwith be vacated, dismissed, and expunged as set forth in  
24 subdivision one of this section.

25 6. Vacatur, dismissal and expungement as set forth in subdivision four  
26 or subdivision five of this section is without prejudice to an individ-  
27 ual or their attorney seeking further relief pursuant to section 440.10  
28 of this part. Nothing in this section is intended to diminish or abro-  
29 gate any rights or remedies otherwise available to the individual.

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

33 1. Upon or after arraignment in a local criminal court upon an infor-  
34 mation, a prosecutor's information or a misdemeanor complaint, where the  
35 sole remaining count or counts charge a violation or violations of  
36 section [221.05, 221.10, 221.15, 221.35 or 221.40] 221.45 of the penal  
37 law, or upon summons for a nuisance offense under section sixty-five-c  
38 of the alcoholic beverage control law and before the entry of a plea of  
39 guilty thereto or commencement of a trial thereof, the court, upon  
40 motion of a defendant, may order that all proceedings be suspended and  
41 the action adjourned in contemplation of dismissal, or upon a finding  
42 that adjournment would not be necessary or appropriate and the setting  
43 forth in the record of the reasons for such findings, may dismiss in  
44 furtherance of justice the accusatory instrument; provided, however,  
45 that the court may not order such adjournment in contemplation of  
46 dismissal or dismiss the accusatory instrument if: (a) the defendant has  
47 previously been granted such adjournment in contemplation of dismissal,  
48 or (b) the defendant has previously been granted a dismissal under this  
49 section, or (c) the defendant has previously been convicted of any  
50 offense involving controlled substances, or (d) the defendant has previ-  
51 ously been convicted of a crime and the district attorney does not  
52 consent or (e) the defendant has previously been adjudicated a youthful  
53 offender on the basis of any act or acts involving controlled substances  
54 and the district attorney does not consent. Notwithstanding the limita-  
55 tions set forth in this subdivision, the court may order that all  
56 proceedings be suspended and the action adjourned in contemplation of



1 dismissal based upon a finding of exceptional circumstances. For  
2 purposes of this subdivision, exceptional circumstances exist when,  
3 regardless of the ultimate disposition of the case, the entry of a plea  
4 of guilty is likely to result in severe or ongoing consequences, includ-  
5 ing, but not limited to, potential or actual immigration consequences.

6 § 23. Paragraph (j) of subdivision 1 of section 440.10 of the criminal  
7 procedure law, as amended by section 2 of part MMM of chapter 59 of the  
8 laws of 2019, is amended and a new paragraph (k) is added to read as  
9 follows:

10 (j) The judgment is a conviction for a class A or unclassified misde-  
11 meanor entered prior to the effective date of this paragraph and satis-  
12 fies the ground prescribed in paragraph (h) of this subdivision. There  
13 shall be a rebuttable presumption that a conviction by plea to such an  
14 offense was not knowing, voluntary and intelligent, based on ongoing  
15 collateral consequences, including potential or actual immigration  
16 consequences, and there shall be a rebuttable presumption that a  
17 conviction by verdict constitutes cruel and unusual punishment under  
18 section five of article one of the state constitution based on such  
19 consequences[.]; or

20 (k) if pertinent, such relief is available notwithstanding that the  
21 judgment was for a violation of section 221.05, 221.10, 221.15, 221.20,  
22 221.25, 221.30, 221.35, or 221.40 of the penal law in effect prior to  
23 the effective date of this paragraph and that the underlying action or  
24 proceeding has already been vacated, dismissed and expunged pursuant to  
25 subdivision four or subdivision five of section 160.50 of this chapter  
26 in which case the court shall presume that a conviction by plea for a  
27 violation of the aforementioned sections of the then penal law was not  
28 knowing, voluntary and intelligent, if it has ongoing consequences,  
29 including but not limited to, potential or actual immigration conse-  
30 quences, and shall presume that a conviction by verdict of the aforemen-  
31 tioned sections of the then penal law constitutes cruel and unusual  
32 punishment under the state constitution, based on those consequences.  
33 The prosecution may rebut these presumptions.

34 § 24. The criminal procedure law is amended by adding a new section  
35 440.46-a to read as follows:

36 § 440.46-a Motion for resentence; persons convicted of certain marihuana  
37 offenses.

38 1. Where a person is currently serving a sentence for a conviction,  
39 whether by verdict or by open or negotiated plea, who would not have  
40 been guilty of an offense after the effective date of this section had  
41 this section been in effect at the time of their conviction, the office  
42 of court administration shall automatically vacate, dismiss and expunge  
43 such conviction pursuant to subdivision four of section 160.50 of this  
44 part and immediately notify the New York state department of corrections  
45 and community supervision and local jails, which entities shall imme-  
46 diately effectuate the appropriate relief. The office of court adminis-  
47 tration shall likewise automatically notify the division of criminal  
48 justice services and any police department and law enforcement agency,  
49 which division, department or agency must immediately destroy appurten-  
50 ant records as set forth in subdivision four of section 160.50 of this  
51 part.

52 2. (a) A person currently serving a sentence for a conviction, whether  
53 by verdict or by open or negotiated plea, who would have been guilty of  
54 a lesser offense after the effective date of this section had this  
55 section been in effect at the time of their conviction may petition for  
56 a recall of sentence before the trial court that entered the judgment of



1 conviction in their case to request resentencing in accordance with  
2 article two hundred twenty-two of the penal law.

3 (b) Upon receiving a motion under paragraph (a) of this subdivision,  
4 the court shall presume the movant satisfies the criteria in such para-  
5 graph (a) unless the party opposing the motion proves by clear and  
6 convincing evidence that the movant does not satisfy the criteria. If  
7 the movant satisfies the criteria in paragraph (a) of this subdivision,  
8 the court shall grant the motion to resentence.

9 3. Under no circumstances may resentencing under this section result  
10 in the imposition of a term longer than the original sentence, or the  
11 reinstatement of charges dismissed pursuant to a negotiated plea agree-  
12 ment.

13 4. (a) A person who has completed his or her sentence for a conviction  
14 under the former article two hundred twenty-one of the penal law, wheth-  
15 er by trial or open or negotiated plea, who would have been guilty of a  
16 lesser offense on and after the effective date of this section had this  
17 section been in effect at the time of his or her conviction, may file an  
18 application before the trial court that entered the judgment of  
19 conviction in his or her case to have the conviction redesignated (or  
20 "reclassified"), in accordance with article two hundred twenty-two of  
21 the penal law.

22 (b) Upon receiving a motion under paragraph (a) of this subdivision,  
23 the court shall presume the movant satisfies the criteria in paragraph  
24 (a) of this subdivision unless the party opposing the motion proves by  
25 clear and convincing evidence that the movant does not satisfy the  
26 criteria. If the movant satisfies the criteria in paragraph (a) of this  
27 subdivision, the court shall grant the motion to redesignate (or  
28 "reclassify") the conviction.

29 5. (a) If the court that originally sentenced the movant is not avail-  
30 able, the presiding judge shall designate another judge to rule on the  
31 petition or application.

32 (b) Unless requested by the movant, no hearing is necessary to grant  
33 an application filed under subdivision two or four of this section.

34 (c) Any felony conviction that is vacated and resented under subdivi-  
35 vision two of this section or designated as a misdemeanor or violation  
36 under subdivision four of this section shall be considered a misdemeanor  
37 or violation for all purposes. Any misdemeanor conviction that is  
38 vacated and resented under subdivision two of this section or desig-  
39 nated as a violation under subdivision four of this section shall be  
40 considered a violation for all purposes.

41 (d) Nothing in this section is intended to diminish or abrogate any  
42 rights or remedies otherwise available to the petitioner or applicant.

43 (e) Nothing in this and related sections is intended to diminish or  
44 abrogate the finality of judgments in any case not falling within the  
45 purview of this section.

46 (f) The provisions of this section shall apply equally to juvenile  
47 delinquency adjudications and dispositions under section five hundred  
48 one-e of the executive law if the juvenile would not have been guilty of  
49 an offense or would have been guilty of a lesser offense under this  
50 section had this section been in effect at the time of his or her  
51 conviction.

52 (g) The office of court administration shall promulgate and make  
53 available all necessary forms to enable the filing of the petitions and  
54 applications provided in this section no later than sixty days following  
55 the effective date of this section.

1 § 25. Paragraph (c) of subdivision 8 of section 700.05 of the criminal  
2 procedure law, as amended by chapter 37 of the laws of 2014, is amended  
3 to read as follows:

4 (c) Criminal possession of a controlled substance in the seventh  
5 degree as defined in section 220.03 of the penal law, criminal  
6 possession of a controlled substance in the fifth degree as defined in  
7 section 220.06 of the penal law, criminal possession of a controlled  
8 substance in the fourth degree as defined in section 220.09 of the penal  
9 law, criminal possession of a controlled substance in the third degree  
10 as defined in section 220.16 of the penal law, criminal possession of a  
11 controlled substance in the second degree as defined in section 220.18  
12 of the penal law, criminal possession of a controlled substance in the  
13 first degree as defined in section 220.21 of the penal law, criminal  
14 sale of a controlled substance in the fifth degree as defined in section  
15 220.31 of the penal law, criminal sale of a controlled substance in the  
16 fourth degree as defined in section 220.34 of the penal law, criminal  
17 sale of a controlled substance in the third degree as defined in section  
18 220.39 of the penal law, criminal sale of a controlled substance in the  
19 second degree as defined in section 220.41 of the penal law, criminal  
20 sale of a controlled substance in the first degree as defined in section  
21 220.43 of the penal law, criminally possessing a hypodermic instrument  
22 as defined in section 220.45 of the penal law, criminal sale of a  
23 prescription for a controlled substance or a controlled substance by a  
24 practitioner or pharmacist as defined in section 220.65 of the penal  
25 law, criminal possession of methamphetamine manufacturing material in  
26 the second degree as defined in section 220.70 of the penal law, crimi-  
27 nal possession of methamphetamine manufacturing material in the first  
28 degree as defined in section 220.71 of the penal law, criminal  
29 possession of precursors of methamphetamine as defined in section 220.72  
30 of the penal law, unlawful manufacture of methamphetamine in the third  
31 degree as defined in section 220.73 of the penal law, unlawful manufac-  
32 ture of methamphetamine in the second degree as defined in section  
33 220.74 of the penal law, unlawful manufacture of methamphetamine in the  
34 first degree as defined in section 220.75 of the penal law, unlawful  
35 disposal of methamphetamine laboratory material as defined in section  
36 220.76 of the penal law, operating as a major trafficker as defined in  
37 section 220.77 of the penal law, [criminal possession of marihuana in  
38 the first degree as defined in section 221.30 of the penal law, criminal  
39 sale of marihuana in the first degree as defined in section 221.55 of  
40 the penal law,] promoting gambling in the second degree as defined in  
41 section 225.05 of the penal law, promoting gambling in the first degree  
42 as defined in section 225.10 of the penal law, possession of gambling  
43 records in the second degree as defined in section 225.15 of the penal  
44 law, possession of gambling records in the first degree as defined in  
45 section 225.20 of the penal law, and possession of a gambling device as  
46 defined in section 225.30 of the penal law;

47 § 26. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and  
48 9 of section 1310 of the civil practice law and rules, paragraphs (b)  
49 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990  
50 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,  
51 are amended to read as follows:

52 (b) on three or more occasions, engaging in conduct constituting a  
53 violation of any of the felonies defined in section 220.09, 220.16,  
54 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[,], or 220.43 [or 221.55]  
55 of the penal law, which violations do not constitute a single criminal  
56 offense as defined in subdivision one of section 40.10 of the criminal



1 procedure law, or a single criminal transaction, as defined in paragraph  
2 (a) of subdivision two of section 40.10 of the criminal procedure law,  
3 and at least one of which resulted in a conviction of such offense, or  
4 where the accusatory instrument charges one or more of such felonies,  
5 conviction upon a plea of guilty to a felony for which such plea is  
6 otherwise authorized by law; or

7 (c) a conviction of a person for a violation of section 220.09,  
8 220.16, 220.34 or 220.39 of the penal law, [or a conviction of a crimi-  
9 nal defendant for a violation of section 221.30 of the penal law,] or  
10 where the accusatory instrument charges any such felony, conviction upon  
11 a plea of guilty to a felony for which the plea is otherwise authorized  
12 by law, together with evidence which: (i) provides substantial indicia  
13 that the defendant used the real property to engage in a continual,  
14 ongoing course of conduct involving the unlawful mixing, compounding,  
15 manufacturing, warehousing, or packaging of controlled substances [or  
16 where the conviction is for a violation of section 221.30 of the penal  
17 law, marijuana,] as part of an illegal trade or business for gain; and  
18 (ii) establishes, where the conviction is for possession of a controlled  
19 substance [or where the conviction is for a violation of section 221.30  
20 of the penal law, marijuana], that such possession was with the intent  
21 to sell it.

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

25 9. "Criminal defendant" means a person who has criminal liability for  
26 a crime defined in [subdivisions] subdivision five [and six hereof] of  
27 this section. For purposes of this article, a person has criminal  
28 liability when [(a)] he has been convicted of a post-conviction forfei-  
29 ture crime[, or (b) the claiming authority proves by clear and convinc-  
30 ing evidence that such person has committed an act in violation of arti-  
31 cle two hundred twenty or section 221.30 or 221.55 of the penal law].

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

34 13. "Serious offense" shall mean any felony involving the offenses  
35 enumerated in the closing paragraph of this subdivision; a criminal  
36 solicitation of or a conspiracy to commit or an attempt to commit or a  
37 criminal facilitation of a felony involving the offenses enumerated in  
38 the closing paragraph of this subdivision, which criminal solicitation,  
39 conspiracy, attempt or criminal facilitation itself constitutes a felony  
40 or any offense in any other jurisdiction which if committed in this  
41 state would constitute a felony; any offense in any other jurisdiction  
42 which if committed in this state would constitute a felony provided that  
43 for the purposes of this article, none of the following shall be consid-  
44 ered criminal convictions or reported as such: (i) a conviction for  
45 which an executive pardon has been issued pursuant to the executive law;  
46 (ii) a conviction which has been vacated and replaced by a youthful  
47 offender finding pursuant to article seven hundred twenty of the crimi-  
48 nal procedure law, or the applicable provisions of law of any other  
49 jurisdiction; or (iii) a conviction the records of which have been  
50 sealed pursuant to the applicable provisions of the laws of this state  
51 or of any other jurisdiction; and (iv) a conviction for which other  
52 evidence of successful rehabilitation to remove the disability has been  
53 issued.

54 Felonies involving: assault, aggravated assault and reckless endanger-  
55 ment pursuant to article one hundred twenty; vehicular manslaughter,  
56 manslaughter and murder pursuant to article one hundred twenty-five; sex

1 offenses pursuant to article one hundred thirty; unlawful imprisonment,  
2 kidnapping or coercion pursuant to article one hundred thirty-five;  
3 criminal trespass and burglary pursuant to article one hundred forty;  
4 criminal mischief, criminal tampering and tampering with a consumer  
5 product pursuant to article one hundred forty-five; arson pursuant to  
6 article one hundred fifty; larceny and offenses involving theft pursuant  
7 to article one hundred fifty-five; offenses involving computers pursuant  
8 to article one hundred fifty-six; robbery pursuant to article one  
9 hundred sixty; criminal possession of stolen property pursuant to arti-  
10 cle one hundred sixty-five; forgery and related offenses pursuant to  
11 article one hundred seventy; involving false written statements pursuant  
12 to article one hundred seventy-five; commercial bribing and commercial  
13 bribe receiving pursuant to article one hundred eighty; criminal imper-  
14 sonation and scheme to defraud pursuant to article one hundred ninety;  
15 bribery involving public servants and related offenses pursuant to arti-  
16 cle two hundred; perjury and related offenses pursuant to article two  
17 hundred ten; tampering with a witness, intimidating a victim or witness  
18 and tampering with physical evidence pursuant to article two hundred  
19 fifteen; criminal possession of a controlled substance pursuant to  
20 sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a  
21 controlled substance pursuant to sections 220.31, 220.34, 220.39,  
22 220.41, 220.43 and 220.44; [criminal] unlicensed sale of [marijuana]  
23 cannabis in the first degree pursuant to [sections 221.45, 221.50 and  
24 221.55] section 222.30; riot in the first degree, aggravated harassment  
25 in the first degree, criminal nuisance in the first degree and falsely  
26 reporting an incident in the second or first degree pursuant to article  
27 two hundred forty; and crimes against public safety pursuant to article  
28 two hundred sixty-five of the penal law.

29 § 28. Paragraph (f) of subdivision 2 of section 850 of the general  
30 business law is REPEALED.

31 § 29. Paragraph (h) of subdivision 2 of section 850 of the general  
32 business law, as amended by chapter 812 of the laws of 1980, is amended  
33 to read as follows:

34 (h) Objects, used or designed for the purpose of ingesting, inhaling,  
35 or otherwise introducing [marihuana,] cocaine[, hashish, or hashish oil]  
36 into the human body.

37 § 30. Subdivision 7 of section 995 of the executive law, as amended by  
38 chapter 19 of the laws of 2012, is amended to read as follows:

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

46 § 31. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the  
47 penal law, paragraph (b) as amended by section 31 of part AAA of chapter  
48 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the  
49 laws of 1990, are amended to read as follows:

50 (b) three or more violations of any of the felonies defined in section  
51 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,  
52 220.43[, ] or 220.77[, or 221.55] of this chapter, which violations do  
53 not constitute a single criminal offense as defined in subdivision one  
54 of section 40.10 of the criminal procedure law, or a single criminal  
55 transaction, as defined in paragraph (a) of subdivision two of section  
56 40.10 of the criminal procedure law, and at least one of which resulted

1 in a conviction of such offense, or where the accusatory instrument  
2 charges one or more of such felonies, conviction upon a plea of guilty  
3 to a felony for which such plea is otherwise authorized by law; or

4 (c) a conviction of a person for a violation of section 220.09,  
5 220.16, 220.34[, ] or 220.39[, or 221.30] of this chapter, or where the  
6 accusatory instrument charges any such felony, conviction upon a plea of  
7 guilty to a felony for which the plea is otherwise authorized by law,  
8 together with evidence which: (i) provides substantial indicia that the  
9 defendant used the real property to engage in a continual, ongoing  
10 course of conduct involving the unlawful mixing, compounding, manufac-  
11 turing, warehousing, or packaging of controlled substances [or where the  
12 conviction is for a violation of section 221.30 of this chapter, mari-  
13 juana] as part of an illegal trade or business for gain; and (ii) estab-  
14 lishes, where the conviction is for possession of a controlled substance  
15 [or where the conviction is for a violation of section 221.30 of this  
16 chapter, marijuana], that such possession was with the intent to sell  
17 it.

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

21 (c) The offenses referred to in subparagraph (i) of paragraph (b) of  
22 subdivision one and subparagraph (i) of paragraph (c) of subdivision two  
23 of this section that result in disqualification for a period of five  
24 years shall include a conviction under sections 100.10, 105.13, 115.05,  
25 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,  
26 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,  
27 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,  
28 220.16, 220.31, 220.34, 220.60, 220.65, [221.30, 221.50, 221.55,]  
29 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05,  
30 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of  
31 section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,  
32 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of  
33 the aforesaid offenses under section 110.00 of the penal law, or any  
34 similar offenses committed under a former section of the penal law, or  
35 any offenses committed under a former section of the penal law which  
36 would constitute violations of the aforesaid sections of the penal law,  
37 or any offenses committed outside this state which would constitute  
38 violations of the aforesaid sections of the penal law.

39 § 33. The opening paragraph of paragraph (a) of subdivision 2 of  
40 section 1194 of the vehicle and traffic law, as amended by chapter 196  
41 of the laws of 1996, is amended to read as follows:

42 When authorized. Any person who operates a motor vehicle in this state  
43 shall be deemed to have given consent to a chemical test of one or more  
44 of the following: breath, blood[, ] or urine[, or saliva,] for the  
45 purpose of determining the alcoholic and/or drug content, other than  
46 cannabis content including but not limited to tetrahydrocannabinol  
47 content, of the blood provided that such test is administered by or at  
48 the direction of a police officer with respect to a chemical test of  
49 breath, urine [or saliva] or, with respect to a chemical test of blood,  
50 at the direction of a police officer:

51 § 34. The article heading of article 20-B of the tax law, as added by  
52 chapter 90 of the laws of 2014, is amended to read as follows:

53 ARTICLE 20-B

54 EXCISE TAX ON MEDICAL [MARIHUANA] CANNABIS



1 § 35. Subdivision 1 of section 171-a of the tax law, as amended by  
2 section 3 of part XX of chapter 59 of the laws of 2019, is amended to  
3 read as follows:

4 1. All taxes, interest, penalties and fees collected or received by  
5 the commissioner or the commissioner's duly authorized agent under arti-  
6 cles nine (except section one hundred eighty-two-a thereof and except as  
7 otherwise provided in section two hundred five thereof), nine-A,  
8 twelve-A (except as otherwise provided in section two hundred eighty-  
9 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
10 section three hundred twelve thereof), eighteen, nineteen, twenty  
11 (except as otherwise provided in section four hundred eighty-two there-  
12 of), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four,  
13 twenty-six, twenty-eight (except as otherwise provided in section eleven  
14 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-  
15 nine-B, thirty-one (except as otherwise provided in section fourteen  
16 hundred twenty-one thereof), thirty-three and thirty-three-A of this  
17 chapter shall be deposited daily in one account with such responsible  
18 banks, banking houses or trust companies as may be designated by the  
19 comptroller, to the credit of the comptroller. Such an account may be  
20 established in one or more of such depositories. Such deposits shall be  
21 kept separate and apart from all other money in the possession of the  
22 comptroller. The comptroller shall require adequate security from all  
23 such depositories. Of the total revenue collected or received under such  
24 articles of this chapter, the comptroller shall retain in the comp-  
25 troller's hands such amount as the commissioner may determine to be  
26 necessary for refunds or reimbursements under such articles of this  
27 chapter out of which amount the comptroller shall pay any refunds or  
28 reimbursements to which taxpayers shall be entitled under the provisions  
29 of such articles of this chapter. The commissioner and the comptroller  
30 shall maintain a system of accounts showing the amount of revenue  
31 collected or received from each of the taxes imposed by such articles.  
32 The comptroller, after reserving the amount to pay such refunds or  
33 reimbursements, shall, on or before the tenth day of each month, pay  
34 into the state treasury to the credit of the general fund all revenue  
35 deposited under this section during the preceding calendar month and  
36 remaining to the comptroller's credit on the last day of such preceding  
37 month, (i) except that the comptroller shall pay to the state department  
38 of social services that amount of overpayments of tax imposed by article  
39 twenty-two of this chapter and the interest on such amount which is  
40 certified to the comptroller by the commissioner as the amount to be  
41 credited against past-due support pursuant to subdivision six of section  
42 one hundred seventy-one-c of this article, (ii) and except that the  
43 comptroller shall pay to the New York state higher education services  
44 corporation and the state university of New York or the city university  
45 of New York respectively that amount of overpayments of tax imposed by  
46 article twenty-two of this chapter and the interest on such amount which  
47 is certified to the comptroller by the commissioner as the amount to be  
48 credited against the amount of defaults in repayment of guaranteed  
49 student loans and state university loans or city university loans pursu-  
50 ant to subdivision five of section one hundred seventy-one-d and subdivi-  
51 sion six of section one hundred seventy-one-e of this article, (iii)  
52 and except further that, notwithstanding any law, the comptroller shall  
53 credit to the revenue arrearage account, pursuant to section  
54 ninety-one-a of the state finance law, that amount of overpayment of tax  
55 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B  
56 or thirty-three of this chapter, and any interest thereon, which is

1 certified to the comptroller by the commissioner as the amount to be  
2 credited against a past-due legally enforceable debt owed to a state  
3 agency pursuant to paragraph (a) of subdivision six of section one  
4 hundred seventy-one-f of this article, provided, however, he shall cred-  
5 it to the special offset fiduciary account, pursuant to section ninety-  
6 one-c of the state finance law, any such amount creditable as a liabil-  
7 ity as set forth in paragraph (b) of subdivision six of section one  
8 hundred seventy-one-f of this article, (iv) and except further that the  
9 comptroller shall pay to the city of New York that amount of overpayment  
10 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,  
11 thirty-B or thirty-three of this chapter and any interest thereon that  
12 is certified to the comptroller by the commissioner as the amount to be  
13 credited against city of New York tax warrant judgment debt pursuant to  
14 section one hundred seventy-one-l of this article, (v) and except  
15 further that the comptroller shall pay to a non-obligated spouse that  
16 amount of overpayment of tax imposed by article twenty-two of this chap-  
17 ter and the interest on such amount which has been credited pursuant to  
18 section one hundred seventy-one-c, one hundred seventy-one-d, one  
19 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-  
20 ty-one-l of this article and which is certified to the comptroller by  
21 the commissioner as the amount due such non-obligated spouse pursuant to  
22 paragraph six of subsection (b) of section six hundred fifty-one of this  
23 chapter; and (vi) the comptroller shall deduct a like amount which the  
24 comptroller shall pay into the treasury to the credit of the general  
25 fund from amounts subsequently payable to the department of social  
26 services, the state university of New York, the city university of New  
27 York, or the higher education services corporation, or the revenue  
28 arrearage account or special offset fiduciary account pursuant to  
29 section ninety-one-a or ninety-one-c of the state finance law, as the  
30 case may be, whichever had been credited the amount originally withheld  
31 from such overpayment, and (vii) with respect to amounts originally  
32 withheld from such overpayment pursuant to section one hundred seventy-  
33 one-l of this article and paid to the city of New York, the comptroller  
34 shall collect a like amount from the city of New York.

35 § 36. Subdivision 1 of section 171-a of the tax law, as amended by  
36 section 4 of part XX of chapter 59 of the laws of 2019, is amended to  
37 read as follows:

38 1. All taxes, interest, penalties and fees collected or received by  
39 the commissioner or the commissioner's duly authorized agent under arti-  
40 cles nine (except section one hundred eighty-two-a thereof and except as  
41 otherwise provided in section two hundred five thereof), nine-A,  
42 twelve-A (except as otherwise provided in section two hundred eighty-  
43 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
44 section three hundred twelve thereof), eighteen, nineteen, twenty  
45 (except as otherwise provided in section four hundred eighty-two there-  
46 of), twenty-C, twenty-D, twenty-one, twenty-two, twenty-four, twenty-  
47 six, twenty-eight (except as otherwise provided in section eleven  
48 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-  
49 nine-B, thirty-one (except as otherwise provided in section fourteen  
50 hundred twenty-one thereof), thirty-three and thirty-three-A of this  
51 chapter shall be deposited daily in one account with such responsible  
52 banks, banking houses or trust companies as may be designated by the  
53 comptroller, to the credit of the comptroller. Such an account may be  
54 established in one or more of such depositories. Such deposits shall be  
55 kept separate and apart from all other money in the possession of the  
56 comptroller. The comptroller shall require adequate security from all

1 such depositories. Of the total revenue collected or received under such  
2 articles of this chapter, the comptroller shall retain in the comp-  
3 troller's hands such amount as the commissioner may determine to be  
4 necessary for refunds or reimbursements under such articles of this  
5 chapter out of which amount the comptroller shall pay any refunds or  
6 reimbursements to which taxpayers shall be entitled under the provisions  
7 of such articles of this chapter. The commissioner and the comptroller  
8 shall maintain a system of accounts showing the amount of revenue  
9 collected or received from each of the taxes imposed by such articles.  
10 The comptroller, after reserving the amount to pay such refunds or  
11 reimbursements, shall, on or before the tenth day of each month, pay  
12 into the state treasury to the credit of the general fund all revenue  
13 deposited under this section during the preceding calendar month and  
14 remaining to the comptroller's credit on the last day of such preceding  
15 month, (i) except that the comptroller shall pay to the state department  
16 of social services that amount of overpayments of tax imposed by article  
17 twenty-two of this chapter and the interest on such amount which is  
18 certified to the comptroller by the commissioner as the amount to be  
19 credited against past-due support pursuant to subdivision six of section  
20 one hundred seventy-one-c of this article, (ii) and except that the  
21 comptroller shall pay to the New York state higher education services  
22 corporation and the state university of New York or the city university  
23 of New York respectively that amount of overpayments of tax imposed by  
24 article twenty-two of this chapter and the interest on such amount which  
25 is certified to the comptroller by the commissioner as the amount to be  
26 credited against the amount of defaults in repayment of guaranteed  
27 student loans and state university loans or city university loans pursu-  
28 ant to subdivision five of section one hundred seventy-one-d and subdivi-  
29 sion six of section one hundred seventy-one-e of this article, (iii)  
30 and except further that, notwithstanding any law, the comptroller shall  
31 credit to the revenue arrearage account, pursuant to section  
32 ninety-one-a of the state finance law, that amount of overpayment of tax  
33 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B  
34 or thirty-three of this chapter, and any interest thereon, which is  
35 certified to the comptroller by the commissioner as the amount to be  
36 credited against a past-due legally enforceable debt owed to a state  
37 agency pursuant to paragraph (a) of subdivision six of section one  
38 hundred seventy-one-f of this article, provided, however, he shall cred-  
39 it to the special offset fiduciary account, pursuant to section ninety-  
40 one-c of the state finance law, any such amount creditable as a liabil-  
41 ity as set forth in paragraph (b) of subdivision six of section one  
42 hundred seventy-one-f of this article, (iv) and except further that the  
43 comptroller shall pay to the city of New York that amount of overpayment  
44 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,  
45 thirty-B or thirty-three of this chapter and any interest thereon that  
46 is certified to the comptroller by the commissioner as the amount to be  
47 credited against city of New York tax warrant judgment debt pursuant to  
48 section one hundred seventy-one-l of this article, (v) and except  
49 further that the comptroller shall pay to a non-obligated spouse that  
50 amount of overpayment of tax imposed by article twenty-two of this chap-  
51 ter and the interest on such amount which has been credited pursuant to  
52 section one hundred seventy-one-c, one hundred seventy-one-d, one  
53 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-  
54 ty-one-l of this article and which is certified to the comptroller by  
55 the commissioner as the amount due such non-obligated spouse pursuant to  
56 paragraph six of subsection (b) of section six hundred fifty-one of this



1 chapter; and (vi) the comptroller shall deduct a like amount which the  
2 comptroller shall pay into the treasury to the credit of the general  
3 fund from amounts subsequently payable to the department of social  
4 services, the state university of New York, the city university of New  
5 York, or the higher education services corporation, or the revenue  
6 arrearage account or special offset fiduciary account pursuant to  
7 section ninety-one-a or ninety-one-c of the state finance law, as the  
8 case may be, whichever had been credited the amount originally withheld  
9 from such overpayment, and (vii) with respect to amounts originally  
10 withheld from such overpayment pursuant to section one hundred seventy-  
11 one-1 of this article and paid to the city of New York, the comptroller  
12 shall collect a like amount from the city of New York.

13 § 37. Section 490 of the tax law, as added by chapter 90 of the laws  
14 of 2014, is amended to read as follows:

15 § 490. [Definitions] Excise tax on medical cannabis. 1. (a) [All  
16 definitions of terms applicable to title five-A of article thirty-three  
17 of the public health law shall apply to this article.] For purposes of  
18 this article, the terms "medical cannabis," "registered organization,"  
19 "certified patient," and "designated caregiver" shall have the same  
20 definitions as in section three of the cannabis law.

21 (b) As used in this section, where not otherwise specifically defined  
22 and unless a different meaning is clearly required "gross receipt" means  
23 the amount received in or by reason of any sale, conditional or other-  
24 wise, of medical [marihuana] cannabis or in or by reason of the furnish-  
25 ing of medical [marihuana] cannabis from the sale of medical [marihuana]  
26 cannabis provided by a registered organization to a certified patient or  
27 designated caregiver. Gross receipt is expressed in money, whether paid  
28 in cash, credit or property of any kind or nature, and shall be deter-  
29 mined without any deduction therefrom on account of the cost of the  
30 service sold or the cost of materials, labor or services used or other  
31 costs, interest or discount paid, or any other expenses whatsoever.  
32 "Amount received" for the purpose of the definition of gross receipt, as  
33 the term gross receipt is used throughout this article, means the amount  
34 charged for the provision of medical [marihuana] cannabis.

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

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

46 4. Every registered organization that makes sales of medical [marihua-  
47 na] cannabis subject to the tax imposed by this article shall, on or  
48 before the twentieth date of each month, file with the commissioner a  
49 return on forms to be prescribed by the commissioner, showing its  
50 receipts from the retail sale of medical [marihuana] cannabis during the  
51 preceding calendar month and the amount of tax due thereon. Such returns  
52 shall contain such further information as the commissioner may require.  
53 Every registered organization required to file a return under this  
54 section shall, at the time of filing such return, pay to the commission-  
55 er the total amount of tax due on its retail sales of medical [marihua-  
56 na] cannabis for the period covered by such return. If a return is not

1 filed when due, the tax shall be due on the day on which the return is  
2 required to be filed.

3 5. Whenever the commissioner shall determine that any moneys received  
4 under the provisions of this article were paid in error, he may cause  
5 the same to be refunded, with interest, in accordance with such rules  
6 and regulations as he may prescribe, except that no interest shall be  
7 allowed or paid if the amount thereof would be less than one dollar.  
8 Such interest shall be at the overpayment rate set by the commissioner  
9 pursuant to subdivision twenty-sixth of section one hundred seventy-one  
10 of this chapter, or if no rate is set, at the rate of six percent per  
11 annum, from the date when the tax, penalty or interest to be refunded  
12 was paid to a date preceding the date of the refund check by not more  
13 than thirty days. Provided, however, that for the purposes of this  
14 subdivision, any tax paid before the last day prescribed for its payment  
15 shall be deemed to have been paid on such last day. Such moneys received  
16 under the provisions of this article which the commissioner shall deter-  
17 mine were paid in error, may be refunded out of funds in the custody of  
18 the comptroller to the credit of such taxes provided an application  
19 therefor is filed with the commissioner within two years from the time  
20 the erroneous payment was made.

21 6. The provisions of article twenty-seven of this chapter shall apply  
22 to the tax imposed by this article in the same manner and with the same  
23 force and effect as if the language of such article had been incorpo-  
24 rated in full into this section and had expressly referred to the tax  
25 imposed by this article, except to the extent that any provision of such  
26 article is either inconsistent with a provision of this article or is  
27 not relevant to this article.

28 7. All taxes, interest and penalties collected or received by the  
29 commissioner under this article shall be deposited and disposed of  
30 pursuant to the provisions of section one hundred seventy-one-a of this  
31 chapter, provided that an amount equal to one hundred percent collected  
32 under this article less any amount determined by the commissioner to be  
33 reserved by the comptroller for refunds or reimbursements shall be paid  
34 by the comptroller to the credit of the medical [marihuana] cannabis  
35 trust fund established by section eighty-nine-h of the state finance  
36 law.

37 8. A registered organization that dispenses medical [marihuana] canna-  
38 bis shall provide to the department information on where the medical  
39 [marihuana] cannabis was dispensed and where the medical [marihuana]  
40 cannabis was manufactured. A registered organization that obtains [mari-  
41 huana] cannabis from another registered organization shall obtain from  
42 such registered organization information on where the medical [marihua-  
43 na] cannabis was manufactured.

44 § 38. Section 491 of the tax law, as added by chapter 90 of the laws  
45 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60  
46 of the laws of 2016, is amended to read as follows:

47 § 491. Returns to be secret. 1. Except in accordance with proper judi-  
48 cial order or as in this section or otherwise provided by law, it shall  
49 be unlawful for the commissioner, any officer or employee of the depart-  
50 ment, or any officer or person who, pursuant to this section, is permit-  
51 ted to inspect any return or report or to whom a copy, an abstract or a  
52 portion of any return or report is furnished, or to whom any information  
53 contained in any return or report is furnished, or any person engaged or  
54 retained by such department on an independent contract basis or any  
55 person who in any manner may acquire knowledge of the contents of a  
56 return or report filed pursuant to this article to divulge or make known



1 in any manner the contents or any other information relating to the  
2 business of a distributor, owner or other person contained in any return  
3 or report required under this article. The officers charged with the  
4 custody of such returns or reports shall not be required to produce any  
5 of them or evidence of anything contained in them in any action or  
6 proceeding in any court, except on behalf of the state, [the state  
7 department of health] office of cannabis management, or the commissioner  
8 in an action or proceeding under the provisions of this chapter or on  
9 behalf of the state or the commissioner in any other action or proceed-  
10 ing involving the collection of a tax due under this chapter to which  
11 the state or the commissioner is a party or a claimant or on behalf of  
12 any party to any action or proceeding under the provisions of this arti-  
13 cle, when the returns or the reports or the facts shown thereby are  
14 directly involved in such action or proceeding, or in an action or  
15 proceeding relating to the regulation or taxation of medical [marihuana]  
16 cannabis on behalf of officers to whom information shall have been  
17 supplied as provided in subdivision two of this section, in any of which  
18 events the court may require the production of, and may admit in  
19 evidence so much of said returns or reports or of the facts shown there-  
20 by as are pertinent to the action or proceeding and no more. Nothing  
21 herein shall be construed to prohibit the commissioner, in his or her  
22 discretion, from allowing the inspection or delivery of a certified copy  
23 of any return or report filed under this article or of any information  
24 contained in any such return or report by or to a duly authorized offi-  
25 cer or employee of the [state department of health] office of cannabis  
26 management; or by or to the attorney general or other legal represen-  
27 tatives of the state when an action shall have been recommended or  
28 commenced pursuant to this chapter in which such returns or reports or  
29 the facts shown thereby are directly involved; or the inspection of the  
30 returns or reports required under this article by the comptroller or  
31 duly designated officer or employee of the state department of audit and  
32 control, for purposes of the audit of a refund of any tax paid by a  
33 registered organization or other person under this article; nor to  
34 prohibit the delivery to a registered organization, or a duly authorized  
35 representative of such registered organization, a certified copy of any  
36 return or report filed by such registered organization pursuant to this  
37 article, nor to prohibit the publication of statistics so classified as  
38 to prevent the identification of particular returns or reports and the  
39 items thereof. This section shall also not be construed to prohibit the  
40 disclosure, for tax administration purposes, to the division of the  
41 budget and the office of the state comptroller, of information aggre-  
42 gated from the returns filed by all the registered organizations making  
43 sales of, or manufacturing, medical [marihuana] cannabis in a specified  
44 county, whether the number of such registered organizations is one or  
45 more. Provided further that, notwithstanding the provisions of this  
46 subdivision, the commissioner may, in his or her discretion, permit the  
47 proper officer of any county entitled to receive an allocation, follow-  
48 ing appropriation by the legislature, pursuant to this article and  
49 section eighty-nine-h of the state finance law, or the authorized repre-  
50 sentative of such officer, to inspect any return filed under this arti-  
51 cle, or may furnish to such officer or the officer's authorized repre-  
52 sentative an abstract of any such return or supply such officer or such  
53 representative with information concerning an item contained in any such  
54 return, or disclosed by any investigation of tax liability under this  
55 article.



1 2. The commissioner, in his or her discretion and pursuant to such  
2 rules and regulations as he or she may adopt, may permit [the commis-  
3 sioner of internal revenue of the United States, or] the appropriate  
4 officers of any other state which regulates or taxes medical [marihuana]  
5 cannabis, or the duly authorized representatives of such [commissioner  
6 or of any such] officers, to inspect returns or reports made pursuant to  
7 this article, or may furnish to such [commissioner or] other officers,  
8 or duly authorized representatives, a copy of any such return or report  
9 or an abstract of the information therein contained, or any portion  
10 thereof, or may supply [such commissioner or] any such officers or such  
11 representatives with information relating to the business of a regis-  
12 tered organization making returns or reports hereunder. The commissioner  
13 may refuse to supply information pursuant to this subdivision [to the  
14 commissioner of internal revenue of the United States or] to the offi-  
15 cers of any other state if the statutes [of the United States, or] of  
16 the state represented by such officers, do not grant substantially simi-  
17 lar privileges to the commissioner, but such refusal shall not be manda-  
18 tory. Information shall not be supplied to [the commissioner of internal  
19 revenue of the United States or] the appropriate officers of any other  
20 state which regulates or taxes medical [marihuana] cannabis, or the duly  
21 authorized representatives [of such commissioner or] of any of such  
22 officers, unless such [commissioner,] officer or other representatives  
23 shall agree not to divulge or make known in any manner the information  
24 so supplied, but such officers may transmit such information to their  
25 employees or legal representatives when necessary, who in turn shall be  
26 subject to the same restrictions as those hereby imposed upon such  
27 [commissioner,] officer or other representatives.

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

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

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

36 ARTICLE 20-C

37 TAX ON ADULT-USE CANNABIS PRODUCTS

38 Section 492. Definitions.

39 493. Tax on cannabis.

40 494. Registration and renewal.

41 495. Returns and payment of tax.

42 496. Returns to be kept secret.

43 § 492. Definitions. For purposes of this article, the following defi-  
44 nitions shall apply:

45 (a) "Cannabis" means all parts of a plant of the genus cannabis,  
46 whether growing or not; the seeds thereof; the resin extracted from any  
47 part of the plant; and every compound, manufacture, salt, derivative,  
48 mixture, or preparation of the plant, its seeds or resin. For purposes  
49 of this article, cannabis does not include medical cannabis or hemp  
50 extract as defined in section three of the cannabis law.

51 (b) "Cannabis flower" means the flower of a plant of the genus canna-  
52 bis that has been harvested, dried, and cured, and prior to any process-  
53 ing whereby the plant material is transformed into a concentrate,  
54 including, but not limited to, concentrated cannabis, or an edible or



1 topical product containing cannabis or concentrated cannabis and other  
2 ingredients. Cannabis flower excludes leaves and stem.

3 (c) "Cannabis trim" means all parts of a plant of the genus cannabis  
4 other than cannabis flowers that have been harvested, dried, and cured,  
5 and prior to any processing whereby the plant material is transformed  
6 into a concentrate, including, but not limited to, concentrated canna-  
7 bis, or an edible or topical product containing cannabis and other  
8 ingredients.

9 (d) "Cannabis product" or "adult use cannabis" means a cannabis prod-  
10 uct as defined in section three of the cannabis law. For purposes of  
11 this article, under no circumstances shall adult-use cannabis product  
12 include medical cannabis or hemp extract as defined in section three of  
13 the cannabis law.

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

19 (f) "Wholesaler" means any person that sells or transfers adult-use  
20 cannabis products to a retail dispensary licensed pursuant to section  
21 seventy-two of the cannabis law. Where the cultivator or processor is  
22 also the retail dispensary, the retail dispensary shall be the whole-  
23 saler for purposes of this article.

24 (g) "Cultivation" has the same meaning as described in subdivision two  
25 of section sixty-eight of the cannabis law.

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

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

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

35 (k) "Processor" has the same meaning as described in subdivision two  
36 of section sixty-nine of the cannabis law.

37 § 493. Tax on cannabis. (a) There is hereby imposed and shall be paid  
38 a tax on the cultivation of cannabis flower and cannabis trim at the  
39 rate of one dollar per dry-weight gram of cannabis flower and twenty-  
40 five cents per dry-weight gram of cannabis trim. Where the wholesaler is  
41 not the cultivator, such tax shall be collected from the cultivator by  
42 the wholesaler at the time such flower or trim is transferred to the  
43 wholesaler. Where the wholesaler is the cultivator, such tax shall be  
44 paid by the wholesaler and shall accrue at the time of sale or transfer  
45 to a retail dispensary. Where the cultivator is also the retail dispen-  
46 sary, such tax shall accrue at the time of the sale to the retail  
47 customer.

48 (b) In addition to the tax imposed by subdivision (a) of this section,  
49 there is hereby imposed a tax on the sale or transfer by a wholesaler to  
50 a retail dispensary of adult-use cannabis products, to be paid by such  
51 wholesaler. Where the wholesaler is not the retail dispensary, such tax  
52 shall be at the rate of eighteen percent of the invoice price charged by  
53 the wholesaler to a retail dispensary, and shall accrue at the time of  
54 such sale. Where the wholesaler is the retail dispensary, such tax shall  
55 be at the rate of eighteen percent of the price charged to the retail  
56 customer and shall accrue at the time of such sale.

1 (c) In addition to the taxes imposed by subdivisions (a) and (b) of  
2 this section, there is hereby imposed a tax on the sale or transfer by a  
3 wholesaler to a retail dispensary of adult-use cannabis products, in  
4 trust for and on account of the county in which the retail dispensary is  
5 located. Such tax shall be paid by the wholesaler and shall accrue at  
6 the time of such sale. Where the wholesaler is not the retail dispen-  
7 sary, such tax shall be at the rate of four percent of the invoice price  
8 charged by the wholesaler to a retail dispensary. Where the wholesaler  
9 is the retail dispensary, such tax shall be at the rate of four percent  
10 of the price charged to the retail customer.

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

14 § 494. Registration and renewal. (a) Every wholesaler must file with  
15 the commissioner a properly completed application for a certificate of  
16 registration before engaging in business. In order to apply for such  
17 certificate of registration, such person must first be in possession of  
18 a valid license from the office of cannabis management. An application  
19 for a certificate of registration must be submitted electronically, on a  
20 form prescribed by the commissioner, and must be accompanied by a non-  
21 refundable application fee of six hundred dollars. A certificate of  
22 registration shall not be assignable or transferable and shall be  
23 destroyed immediately upon such person ceasing to do business as speci-  
24 fied in such certificate, or in the event that such business never  
25 commenced.

26 (b) The commissioner shall refuse to issue a certificate of registra-  
27 tion to any applicant and shall revoke the certificate of registration  
28 of any such person who does not possess a valid license from the office  
29 of cannabis management. The commissioner may refuse to issue a certif-  
30 icate of registration to any applicant where such applicant: (1) has a  
31 past-due liability as that term is defined in section one hundred seven-  
32 ty-one-v of this chapter; (2) has had a certificate of registration  
33 under this article, a license from the office of cannabis management, or  
34 any license or registration provided for in this chapter revoked within  
35 one year from the date on which such application was filed; (3) has been  
36 convicted of a crime provided for in this chapter within one year from  
37 the date on which such application was filed of the certificate's issu-  
38 ance; (4) willfully fails to file a report or return required by this  
39 article; (5) willfully files, causes to be filed, gives or causes to be  
40 given a report, return, certificate or affidavit required by this arti-  
41 cle which is false; or (6) willfully fails to collect or truthfully  
42 account for or pay over any tax imposed by this article.

43 (c) A certificate of registration shall be valid for the period speci-  
44 fied thereon, unless earlier suspended or revoked. Upon the expiration  
45 of the term stated on a certificate of registration, such certificate  
46 shall be null and void.

47 (d) Every holder of a certificate of registration must notify the  
48 commissioner of changes to any of the information stated on the certif-  
49 icate, or of changes to any information contained in the application for  
50 the certificate of registration. Such notification must be made on or  
51 before the last day of the month in which a change occurs and must be  
52 made electronically on a form prescribed by the commissioner.

53 (e) Every holder of a certificate of registration under this article  
54 shall be required to reapply prior to such certificate's expiration,  
55 during a reapplication period established by the commissioner. Such  
56 reapplication period shall not occur more frequently than every two

1 years. Such reapplication shall be subject to the same requirements and  
2 conditions, including grounds for refusal, as an initial application,  
3 including the payment of the application fee.

4 (f) Penalties. A person to whom adult-use cannabis products have been  
5 transferred or who sells adult-use cannabis products without a valid  
6 certificate of registration pursuant to subdivision (a) of this section  
7 shall be subject to a penalty of five hundred dollars for each month or  
8 part thereof during which such person continues to possess adult-use  
9 cannabis products that have been transferred to such person or who sells  
10 such products after the expiration of the first month after which such  
11 person operates without a valid certificate of registration, not to  
12 exceed ten thousand dollars in the aggregate.

13 § 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on  
14 or before the twentieth day of the month, file with the commissioner a  
15 return on forms to be prescribed by the commissioner, showing the total  
16 weight of cannabis flower and cannabis trim subject to tax pursuant to  
17 subdivision (a) of section four hundred ninety-three of this article and  
18 the total amount of tax due thereon in the preceding calendar month, and  
19 the total amount of tax due under subdivisions (b) and (c) of such  
20 section on its sales to a retail dispensary during the preceding calen-  
21 dar month, along with such other information as the commissioner may  
22 require. Every person required to file a return under this section  
23 shall, at the time of filing such return, pay to the commissioner the  
24 total amount of tax due for the period covered by such return. If a  
25 return is not filed when due, the tax shall be due on the day on which  
26 the return is required to be filed.

27 2. The wholesaler shall maintain such records in such form as the  
28 commissioner may require regarding such items as: where the wholesaler  
29 is not the cultivator, the weight of the cannabis flower and cannabis  
30 trim transferred to it by a cultivator or, where the wholesaler is the  
31 cultivator, the weight of such flower and trim produced by it; the  
32 geographic location of every retail dispensary to which it sold adult-  
33 use cannabis products; and any other record or information required by  
34 the commissioner. This information must be kept by such person for a  
35 period of three years after the return was filed.

36 (b) The provisions of article twenty-seven of this chapter shall apply  
37 to the tax imposed by this article in the same manner and with the same  
38 force and effect as if the language of such article had been incorpo-  
39 rated in full into this section and had expressly referred to the tax  
40 imposed by this article, except to the extent that any provision of such  
41 article is either inconsistent with a provision of this article or is  
42 not relevant to this article.

43 (c) 1. All taxes, interest, and penalties collected or received by the  
44 commissioner under this article shall be deposited and disposed of  
45 pursuant to the provisions of section one hundred seventy-one-a of this  
46 chapter, provided that an amount equal to one hundred percent collected  
47 under this article less any amount determined by the commissioner to be  
48 reserved by the comptroller for refunds or reimbursements shall be paid  
49 by the comptroller to the credit of the cannabis revenue fund estab-  
50 lished by section ninety-nine-hh of the state finance law. Of the total  
51 revenue collected or received under this article, the comptroller shall  
52 retain such amount as the commissioner may determine to be necessary for  
53 refunds. The commissioner is authorized and directed to deduct from the  
54 registration fees under subdivision (a) of section four hundred ninety-  
55 four of this article, before deposit into the cannabis revenue fund  
56 designated by the comptroller, a reasonable amount necessary to effectu-

1 ate refunds of appropriations of the department to reimburse the depart-  
2 ment for the costs incurred to administer, collect, and distribute the  
3 taxes imposed by this article.

4 2. Notwithstanding the foregoing, the commissioner shall certify to  
5 the comptroller the total amount of tax, penalty and interest received  
6 by him or her on account of the tax imposed by subdivision (c) of  
7 section four hundred ninety-three of this article in trust for and on  
8 account of each county in which a retail dispensary is located. On or  
9 before the twelfth day of each month, the comptroller, after reserving  
10 such refund fund, shall pay to the appropriate fiscal officer of each  
11 such county the taxes, penalties and interest received and certified by  
12 the commissioner for the preceding calendar month.

13 § 496. Returns to be kept secret. (a) Except in accordance with proper  
14 judicial order or as in this section or otherwise provided by law, it  
15 shall be unlawful for the commissioner, any officer or employee of the  
16 department, or any officer or person who, pursuant to this section, is  
17 permitted to inspect any return or report or to whom a copy, an abstract  
18 or a portion of any return or report is furnished, or to whom any infor-  
19 mation contained in any return or report is furnished, or any person who  
20 in any manner may acquire knowledge of the contents of a return or  
21 report filed pursuant to this article to divulge or make known in any  
22 manner the content or any other information related to the business of  
23 the wholesaler contained in any return or report required under this  
24 article. The officers charged with the custody of such returns or  
25 reports shall not be required to produce any of them or evidence of  
26 anything contained in them in any action or proceeding in any court,  
27 except on behalf of the state, the office of cannabis management, or the  
28 commissioner in an action or proceeding involving the collection of tax  
29 due under this chapter to which the state or the commissioner is a party  
30 or a claimant or on behalf of any party to any action or proceeding  
31 under the provisions of this article, when the returns or the reports or  
32 the facts shown thereby are directly involved in such action or proceed-  
33 ing, or in an action or proceeding related to the regulation or taxation  
34 of adult-use cannabis products on behalf of officers to whom information  
35 shall have been supplied as provided in this section, in any of which  
36 events the courts may require the production of, and may admit in  
37 evidence so much of said returns or reports or of the facts shown there-  
38 by as are pertinent to the action or proceeding and no more. Nothing  
39 herein shall be construed to prohibit the commissioner, in his or her  
40 discretion, from allowing the inspection or delivery of a certified copy  
41 of any return or report filed under this article or of any information  
42 contained in any such return or report by or to a duly authorized offi-  
43 cer or employee of the office of cannabis management or by or to the  
44 attorney general or other legal representatives of the state when an  
45 action shall have been recommended or commenced pursuant to this chapter  
46 in which such returns or reports or the facts shown thereby are directly  
47 involved; or the inspection of the returns or reports required under  
48 this article by the comptroller or duly designated officer or employee  
49 of the state department of audit and control, for purposes of the audit  
50 of a refund of any tax paid by the wholesaler under this article; nor to  
51 prohibit the delivery to such person or a duly authorized representative  
52 of such person, a certified copy of any return or report filed by such  
53 person pursuant to this article, nor to prohibit the publication of  
54 statistics so classified as to prevent the identification of particular  
55 returns or reports and the items thereof. This section shall also not be  
56 construed to prohibit the disclosure, for tax administration purposes,



1 to the division of the budget and the office of the state comptroller,  
2 of information aggregated from the returns filed by all wholesalers  
3 purchasing and selling such products in the state, whether the number of  
4 such persons is one or more. Provided further that, notwithstanding the  
5 provisions of this subdivision, the commissioner may in his or her  
6 discretion, permit the proper officer of any county entitled to receive  
7 any distribution of the monies received on account of the tax imposed by  
8 subdivision (c) of section four hundred ninety-three of this article, or  
9 the authorized representative of such officer, to inspect any return  
10 filed under this article, or may furnish to such officer or the offi-  
11 cer's authorized representative an abstract of any such return or supply  
12 such officer or representative with information concerning an item  
13 contained in any such return, or disclosed by any investigation of tax  
14 liability under this article.

15 (b) The commissioner, in his or her discretion, may permit the appro-  
16 priate officers of any other state that regulates or taxes cannabis or  
17 the duly authorized representatives of such commissioner or of any such  
18 officers, to inspect returns or reports made pursuant to this article,  
19 or may furnish to the commissioner or other officer, or duly authorized  
20 representatives, a copy of any such return or report or an abstract of  
21 the information therein contained, or any portion thereof, or may supply  
22 such commissioner or any such officers or such representatives with  
23 information relating to the business of a wholesaler making returns or  
24 reports hereunder solely for purposes of tax administration. The commis-  
25 sioner may refuse to supply information pursuant to this subdivision to  
26 the officers of any other state if the statutes of the state represented  
27 by such officers do not grant substantially similar privileges to the  
28 commissioner, but such refusal shall not be mandatory. Information shall  
29 not be supplied to the appropriate officers of any state that regulates  
30 or taxes cannabis, or the duly authorized representatives of such  
31 commissioner or of any such officers, unless such commissioner, officer,  
32 or other representatives shall agree not to divulge or make known in any  
33 manner the information so supplied, but such officers may transmit such  
34 information to their employees or legal representatives when necessary,  
35 who in turn shall be subject to the same restrictions as those hereby  
36 imposed upon such commissioner, officer or other representatives.

37 (c) 1. Any officer or employee of the state who willfully violates the  
38 provisions of subdivision (a) or (b) of this section shall be dismissed  
39 from office and be incapable of holding any public office in the state  
40 for a period of five years thereafter.

41 2. For criminal penalties, see article thirty-seven of this chapter.

42 § 40. Subdivision (a) of section 1115 of the tax law is amended by  
43 adding a new paragraph 3-b to read as follows:

44 (3-b) Adult-use cannabis products as defined by article twenty-C of  
45 this chapter.

46 § 41. Section 12 of chapter 90 of the laws of 2014 amending the public  
47 health law, the tax law, the state finance law, the general business  
48 law, the penal law and the criminal procedure law relating to medical  
49 use of marihuana, is amended to read as follows:

50 § 12. This act shall take effect immediately [and]; provided, however  
51 that sections one, three, five, six, seven-a, eight, nine, ten and elev-  
52 en of this act shall expire and be deemed repealed seven years after  
53 such date; provided that the amendments to section 171-a of the tax law  
54 made by section seven of this act shall take effect on the same date and  
55 in the same manner as section 54 of part A of chapter 59 of the laws of  
56 2014 takes effect and shall not expire and be deemed repealed; and



1 provided, further, that the amendments to subdivision 5 of section  
2 410.91 of the criminal procedure law made by section eleven of this act  
3 shall not affect the expiration and repeal of such section and shall  
4 expire and be deemed repealed therewith.

5 § 42. The office of cannabis management, in consultation with the  
6 division of the budget, the department of taxation and finance, the  
7 department of health, office of alcoholism and substance abuse services,  
8 office of mental health, New York state police and the division of crim-  
9 inal justice services, shall conduct a study of the effectiveness of  
10 this act. Such study shall examine all aspects of this act, including  
11 economic and fiscal impacts, the impact on the public health and safety  
12 of New York residents and the progress made in achieving social justice  
13 goals and toward eliminating the illegal market for cannabis products in  
14 New York. The office shall make recommendations regarding the appropri-  
15 ate level of taxation of adult-use cannabis, as well as changes, if any,  
16 necessary to improve and protect the public health and safety of New  
17 Yorkers. Such study shall be conducted two years after the effective  
18 date of this act and shall be presented to the governor, the majority  
19 leader of the senate and the speaker of the assembly, no later than  
20 October 1, 2022.

21 § 43. Section 102 of the alcoholic beverage control law is amended by  
22 adding a new subdivision 8 to read as follows:

23 8. No alcoholic beverage retail licensee shall sell cannabis, nor have  
24 or possess a license or permit to sell cannabis, on the same premises  
25 where alcoholic beverages are sold.

26 § 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the  
27 general obligations law, as added by chapter 406 of the laws of 2000,  
28 are amended to read as follows:

29 1. "Illegal drug" means any controlled substance [or marijuana] the  
30 possession of which is an offense under the public health law or the  
31 penal law.

32 4. "Grade one violation" means possession of one-quarter ounce or  
33 more, but less than four ounces, or distribution of less than one ounce  
34 of an illegal drug [other than marijuana, or possession of one pound or  
35 twenty-five plants or more, but less than four pounds or fifty plants,  
36 or distribution of less than one pound of marijuana].

37 5. "Grade two violation" means possession of four ounces or more, but  
38 less than eight ounces, or distribution of one ounce or more, but less  
39 than two ounces, of an illegal drug [other than marijuana, or possession  
40 of four pounds or more or fifty plants or distribution of more than one  
41 pound but less than ten pounds of marijuana].

42 6. "Grade three violation" means possession of eight ounces or more,  
43 but less than sixteen ounces, or distribution of two ounces or more, but  
44 less than four ounces, of a specified illegal drug [or possession of  
45 eight pounds or more or seventy-five plants or more, but less than  
46 sixteen pounds or one hundred plants, or distribution of more than five  
47 pounds but less than ten pounds of marijuana].

48 7. "Grade four violation" means possession of sixteen ounces or more  
49 or distribution of four ounces or more of a specified illegal drug [or  
50 possession of sixteen pounds or more or one hundred plants or more or  
51 distribution of ten pounds or more of marijuana].

52 13. "Drug trafficker" means a person convicted of a class A or class B  
53 felony controlled substance [or marijuana offense] who, in connection  
54 with the criminal conduct for which he or she stands convicted,  
55 possessed, distributed, sold or conspired to sell a controlled substance  
56 [or marijuana] which, by virtue of its quantity, the person's prominent



1 role in the enterprise responsible for the sale or distribution of such  
2 controlled substance and other circumstances related to such criminal  
3 conduct indicate that such person's criminal possession, sale or  
4 conspiracy to sell such substance was not an isolated occurrence and was  
5 part of an ongoing pattern of criminal activity from which such person  
6 derived substantial income or resources and in which such person played  
7 a leadership role.

8 § 45. Paragraph (g) of subdivision 1 of section 488 of the social  
9 services law, as added by section 1 of part B of chapter 501 of the laws  
10 of 2012, is amended to read as follows:

11 (g) "Unlawful use or administration of a controlled substance," which  
12 shall mean any administration by a custodian to a service recipient of:  
13 a controlled substance as defined by article thirty-three of the public  
14 health law, without a prescription; or other medication not approved for  
15 any use by the federal food and drug administration, except for the  
16 administration of medical cannabis when such administration is in  
17 accordance with article three of the cannabis law and any regulations  
18 promulgated thereunder as well as the rules, regulations, policies, or  
19 procedures of the state oversight agency or agencies governing such  
20 custodians. It also shall include a custodian unlawfully using or  
21 distributing a controlled substance as defined by article thirty-three  
22 of the public health law, at the workplace or while on duty.

23 § 46. Paragraphs (e) and (f) of subdivision 1 of section 490 of the  
24 social services law, as added by section 1 of part B of chapter 501 of  
25 the laws of 2012, are amended and a new paragraph (g) is added to read  
26 as follows:

27 (e) information regarding individual reportable incidents, incident  
28 patterns and trends, and patterns and trends in the reporting and  
29 response to reportable incidents is shared, consistent with applicable  
30 law, with the justice center, in the form and manner required by the  
31 justice center and, for facilities or provider agencies that are not  
32 state operated, with the applicable state oversight agency which shall  
33 provide such information to the justice center; [and]

34 (f) incident review committees are established; provided, however,  
35 that the regulations may authorize an exemption from this requirement,  
36 when appropriate, based on the size of the facility or provider agency  
37 or other relevant factors. Such committees shall be composed of members  
38 of the governing body of the facility or provider agency and other  
39 persons identified by the director of the facility or provider agency,  
40 including some members of the following: direct support staff, licensed  
41 health care practitioners, service recipients and representatives of  
42 family, consumer and other advocacy organizations, but not the director  
43 of the facility or provider agency. Such committee shall meet regularly  
44 to: (i) review the timeliness, thoroughness and appropriateness of the  
45 facility or provider agency's responses to reportable incidents; (ii)  
46 recommend additional opportunities for improvement to the director of  
47 the facility or provider agency, if appropriate; (iii) review incident  
48 trends and patterns concerning reportable incidents; and (iv) make  
49 recommendations to the director of the facility or provider agency to  
50 assist in reducing reportable incidents. Members of the committee shall  
51 be trained in confidentiality laws and regulations, and shall comply  
52 with section seventy-four of the public officers law[.]; and

53 (g) safe storage, administration, and diversion prevention policies  
54 regarding controlled substances and medical cannabis.



1 § 47. Subdivision 1 of section 505 of the agriculture and markets law,  
2 as added by chapter 524 of the laws of 2014, is amended to read as  
3 follows:

4 1. "Industrial hemp" means the plant *Cannabis sativa* L. and any part  
5 of such plant, including the seeds thereof and all derivatives,  
6 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
7 whether growing or not, with a delta-9 tetrahydrocannabinol concen-  
8 tration of not more than 0.3 percent on a dry weight basis.

9 § 48. Section 506 of the agriculture and markets law, as amended by  
10 section 1 of part 00 of chapter 58 of the laws of 2017, is amended to  
11 read as follows:

12 § 506. Growth, sale, distribution, transportation and processing of  
13 industrial hemp and products derived from such hemp permitted.  
14 [Notwithstanding any provision of law to the contrary, industrial] 1.  
15 Industrial hemp and products derived from such hemp are agricultural  
16 products which may be grown, produced [and], possessed [in the state,  
17 and], sold, distributed, transported [or] and/or processed [either] in  
18 [or out of] state [as part of agricultural pilot programs pursuant to  
19 authorization under federal law and the provisions of this article  
20 pursuant to authorization under federal law and/or the provisions of  
21 this article.

22 [Notwithstanding any provision of law to the contrary restricting the  
23 growing or cultivating, sale, distribution, transportation or processing  
24 of industrial hemp and products derived from such hemp, and subject to  
25 authorization under federal law, the]

26 2. The commissioner may authorize the growing or cultivating of indus-  
27 trial hemp as part of agricultural pilot programs conducted by the  
28 department and/or an institution of higher education to study the growth  
29 and cultivation, sale, distribution, transportation and processing of  
30 such hemp and products derived from such hemp provided that the sites  
31 and programs used for growing or cultivating industrial hemp are certi-  
32 fied by, and registered with, the department.

33 3. The industrial hemp used for research pursuant to this section  
34 shall be sourced from authorized New York state industrial hemp produc-  
35 ers. The research partner may obtain an exemption for only grain or  
36 fiber from this requirement upon a satisfactory showing to the depart-  
37 ment that a suitable variety of industrial hemp for the research project  
38 is not grown in New York and/or the use of New York sourced hemp is not  
39 practicable for the project. Hemp for extracts can only be sourced from  
40 authorized New York state industrial hemp producers.

41 4. Nothing in this section shall limit the jurisdiction of the depart-  
42 ment under any other article of this chapter.

43 § 49. Section 507 of the agriculture and markets law is REPEALED and a  
44 new section 507 is added to read as follows:

45 § 507. Licensing; fees. 1. No person shall grow, process, produce,  
46 distribute and/or sell industrial hemp or products derived from indus-  
47 trial hemp in the state unless (a) licensed biennially by the commis-  
48 sioner or (b) authorized by the commissioner as part of an agricultural  
49 research pilot program established under this article.

50 2. Application for a license to grow industrial hemp shall be made  
51 upon a form prescribed by the commissioner, accompanied by a per-acre  
52 license fee and a non-refundable application fee of five hundred  
53 dollars.

54 3. The applicant shall furnish evidence of his or her good character,  
55 experience and competency, that the applicant has adequate facilities,

1 equipment, process controls, testing capability and security to grow  
2 hemp.

3 4. Growers who intend to cultivate hemp for cannabinoids shall be  
4 required to obtain licensure from the department pursuant to article  
5 twenty-nine-A of this chapter.

6 5. A renewal application shall be submitted to the commissioner at  
7 least sixty days prior to the commencement of the next license period.

8 § 50. Section 508 of the agriculture and markets law is REPEALED and a  
9 new section 508 is added to read as follows:

10 § 508. Compliance action plan. If the commissioner determines, after  
11 notice and an opportunity for hearing, that a licensee has negligently  
12 violated a provision of and/or a regulation promulgated pursuant to this  
13 article, that licensee shall be required to comply with a corrective  
14 action plan established by the commissioner to correct the violation by  
15 a reasonable date and to periodically report to the commissioner with  
16 respect to the licensee's compliance with this article for a period of  
17 no less than the next two calendar years following the commencement date  
18 of the compliance action plan. The provisions of this section shall not  
19 be applicable to research partners conducting hemp research pursuant to  
20 a research partner agreement, the terms of which shall control.

21 § 51. Section 509 of the agriculture and markets law is REPEALED and a  
22 new section 509 is added to read as follows:

23 § 509. Granting, suspending or revoking licenses. The commissioner  
24 may decline to grant a new license, may decline to renew a license, may  
25 suspend or revoke a license already granted after due notice and oppor-  
26 tunity for hearing whenever he or she finds that:

27 1. any statement contained in an application for an applicant or  
28 licensee is or was false or misleading;

29 2. the applicant or licensee does not have good character, the  
30 required experience and/or competency, adequate facilities, equipment,  
31 process controls, testing capability and/or security to produce hemp or  
32 products derived from hemp;

33 3. the applicant or licensee has failed or refused to produce any  
34 records or provide any information demanded by the commissioner reason-  
35 ably related to the administration and enforcement of this article; or

36 4. the applicant or licensee, or any officer, director, partner, hold-  
37 er of ten percent of the voting stock, or any other person exercising  
38 any position of management or control has failed to comply with any of  
39 the provisions of this article or rules and regulations promulgated  
40 pursuant thereto.

41 § 52. Section 510 of the agriculture and markets law is REPEALED and a  
42 new section 510 is added to read as follows:

43 § 510. Regulations. The commissioner may develop regulations consist-  
44 ent with the provisions of this article for the growing and cultivation,  
45 sale, distribution, and transportation of industrial hemp grown in the  
46 state, including:

47 1. the authorization or licensing of any person who may: acquire or  
48 possess industrial hemp plants or seeds; grow or cultivate industrial  
49 hemp plants; and/or sell, purchase, distribute, or transport such indus-  
50 trial hemp plants, plant parts, or seeds;

51 2. maintaining relevant information regarding land on which industrial  
52 hemp is produced within the state, including the legal description of  
53 the land, for a period of not less than three calendar years;

54 3. the procedure for testing of industrial hemp produced in the state  
55 for delta-9-tetrahydrocannabinol levels, using a representative non-de-



1 carboxylated sample of flowers and leaves from the whole plant or other  
2 similarly reliable methods;

3 4. the procedure for effective disposal of industrial hemp plants or  
4 products derived from hemp that are produced in violation of this arti-  
5 cle;

6 5. a procedure for conducting at least a random sample of industrial  
7 hemp producers to verify that hemp is not produced in violation of this  
8 article;

9 6. any required security measures; and

10 7. such other and further regulation as the commissioner deems appro-  
11 priate or necessary.

12 § 53. Section 511 of the agriculture and markets law is REPEALED and a  
13 new section 511 is added to read as follows:

14 § 511. Prohibitions. Except as authorized by state law, and regu-  
15 lations promulgated thereunder, the growth, cultivation, processing,  
16 sale, and/or distribution of industrial hemp is prohibited.

17 § 54. Section 512 of the agriculture and markets law is REPEALED and a  
18 new section 512 is added to read as follows:

19 § 512. Industrial hemp data collection and best farming practices.  
20 The commissioner shall have the power to collect and publish data and  
21 research concerning, among other things, the growth, cultivation,  
22 production and processing methods of industrial hemp and products  
23 derived from industrial hemp and work with the New York state college of  
24 agriculture and life science at Cornell pursuant to section fifty-seven  
25 hundred twelve of the education law and the Cornell cooperative exten-  
26 sion pursuant to section two hundred twenty-four of the county law to  
27 promote best farming practices for industrial hemp which are compatible  
28 with state water quality and other environmental objectives.

29 § 55. Sections 513 and 514 of the agriculture and markets law are  
30 REPEALED and two new sections 513 and 514 are added to read as follows:

31 § 513. Access to criminal history information through the division of  
32 criminal justice services. In connection with the administration of  
33 this article, the commissioner is authorized to request, receive and  
34 review criminal history information through the division of criminal  
35 justice services (division) with respect to any person seeking a license  
36 or authorization to undertake a hemp pilot project. At the commission-  
37 er's request, each researcher, principal and/or officer of the applicant  
38 shall submit to the department his or her fingerprints in such form and  
39 in such manner as specified by the division, for the purpose of conduct-  
40 ing a criminal history search and returning a report thereon in accord-  
41 ance with the procedures and requirements established by the division  
42 pursuant to the provisions of article thirty-five of the executive law,  
43 which shall include the payment of the prescribed processing fees for  
44 the cost of the division's full search and retain procedures and a  
45 national criminal history record check. The commissioner, or his or her  
46 designee, shall submit such fingerprints and the processing fee to the  
47 division. The division shall forward to the commissioner a report with  
48 respect to the applicant's previous criminal history, if any, or a  
49 statement that the applicant has no previous criminal history according  
50 to its files. Fingerprints submitted to the division of criminal justice  
51 services pursuant to this section may also be submitted to the federal  
52 bureau of investigation for a national criminal history record check. If  
53 additional copies of fingerprints are required, the applicant shall  
54 furnish them upon request.

55 § 514. Aids to enforcement. 1. The commissioner shall have full access  
56 to all premises, buildings, factories, farms, vehicles, cars, boats,

1 airplanes, vessels, containers, packages, barrels, boxes, and/or cans  
2 for the purpose of enforcing the provisions of this article. The commis-  
3 sioner may, at such locations, examine industrial hemp and hemp products  
4 and may open any package and/or container reasonably believed to contain  
5 industrial hemp or hemp products, to determine whether such industrial  
6 hemp or hemp products follow applicable law or regulation.

7 2. A search warrant shall be issued by any court to which application  
8 is made therefor, whenever it shall be made to appear to such court that  
9 a licensee has: refused to permit any industrial hemp to be inspected or  
10 samples taken therefrom; refused to permit access to any premises, or  
11 place where licensed activities are conducted; and/or refused or  
12 prevented access thereto by any inspector of the department and that  
13 such inspector has reasonable grounds to believe that such person has  
14 any industrial hemp in his or her possession, or under his or her  
15 control and/or is in violation of the provisions or regulations of this  
16 article. In such a case, a warrant shall be issued in the name of the  
17 people, directed to a police officer, commanding him or her to: (a)  
18 search any place of business, factory, building, premises, or farm where  
19 licensed activities have occurred and any vehicle, boat, vessel,  
20 container, package, barrel, box, tub or can, containing, or believed to  
21 contain industrial hemp in the possession or under the control of any  
22 person who shall refuse to allow access to such hemp for inspection or  
23 sampling, (b) permit the inspection and sampling of any industrial hemp  
24 found in the execution of the warrant, as the officer applying for the  
25 search warrant shall designate when the same is found, by an inspector  
26 or a department official authorized by the commissioner or by this chap-  
27 ter, and/or (c) permit access to any place where access is refused or  
28 prevented, and to allow and enable a department inspector or other  
29 department official to conduct an inspection of the place. The  
30 provisions of article six hundred ninety of the criminal procedure law  
31 shall apply to such warrant as far as applicable thereto. The officer to  
32 whom the warrant is delivered shall make a return in writing of his or  
33 her proceedings thereunto to the court which issued the same.

34 3. The commissioner may quarantine industrial hemp when he or she has  
35 reason to believe that such commodity does not meet the definition ther-  
36 eof, set forth in subdivision one of section five hundred five of this  
37 article, or is otherwise in violation of or does not meet a standard set  
38 forth in, applicable law or regulation. The quarantine may by the issu-  
39 ance of an order directing the owner or custodian of industrial hemp not  
40 to distribute, dispose of, or move that commodity without the written  
41 permission of the commissioner. The commissioner may also quarantine a  
42 product by placing a tag or other appropriate marking thereon or adja-  
43 cent thereto that provides and requires that such product must not be  
44 distributed, disposed of, or moved without his or her written permis-  
45 sion, or may quarantine a product by otherwise informing the owner or  
46 custodian thereof that such condition must be complied with.

47 4. The commissioner may seize industrial hemp by taking physical  
48 possession of industrial hemp when he or she has substantial evidence to  
49 believe that such commodity does not meet the definition thereof, set  
50 forth in subdivision one of section five hundred five of this article,  
51 or is otherwise in violation of, or does not meet a standard set forth  
52 in, applicable law or regulation.

53 5. Subsequent to quarantining or seizing industrial hemp, as author-  
54 ized in subdivisions three and four of this section, the commissioner  
55 shall promptly give the owner or custodian thereof an opportunity to be  
56 heard to show cause why such industrial hemp should not be ordered

1 destroyed. The commissioner shall, thereafter, consider all the relevant  
2 evidence and information presented and shall make a determination wheth-  
3 er such industrial hemp should be ordered to be destroyed; that determi-  
4 nation may be reviewed as provided for in article seventy-eight of the  
5 civil practice law and rules.

6 § 56. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal  
7 law, as added by chapter 90 of the laws of 2014, are amended to read as  
8 follows:

9 § 179.00 Criminal diversion of medical [marihuana] cannabis; defi-  
10 nitions.

11 The following definitions are applicable to this article:

12 1. "Medical [marihuana] cannabis" means medical [marihuana] cannabis  
13 as defined in [subdivision eight of section thirty-three hundred sixty  
14 of the public health law] section three of the cannabis law.

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

18 § 179.05 Criminal diversion of medical [marihuana] cannabis; limita-  
19 tions.

20 The provisions of this article shall not apply to:

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

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

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

30 § 179.10 Criminal diversion of medical [marihuana] cannabis in the first  
31 degree.

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

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

43 § 179.11 Criminal diversion of medical [marihuana] cannabis in the  
44 second degree.

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

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

53 § 179.15 Criminal retention of medical [marihuana] cannabis.

54 A person is guilty of criminal retention of medical [marihuana] canna-  
55 bis when, being a certified patient or designated caregiver, as those  
56 terms are defined in [subdivisions three and five of section thirty-

1 three hundred sixty of the public health law, respectively] section  
2 three of the cannabis law, he or she knowingly obtains, possesses,  
3 stores or maintains an amount of [marihuana] cannabis in excess of the  
4 amount he or she is authorized to possess under the provisions of [title  
5 five-A of article thirty-three of the public health law] article three  
6 of the cannabis law.

7 Criminal retention of medical [marihuana] cannabis is a class A misde-  
8 meanor.

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

11 § 220.78 Witness or victim of drug or alcohol overdose.

12 1. A person who, in good faith, seeks health care for someone who is  
13 experiencing a drug or alcohol overdose or other life threatening  
14 medical emergency shall not be charged or prosecuted for a controlled  
15 substance offense under this article [two hundred twenty] or a [marihua-  
16 na] cannabis offense under article two hundred [twenty-one] twenty-two  
17 of this title, other than an offense involving sale for consideration or  
18 other benefit or gain, or charged or prosecuted for possession of alco-  
19 hol by a person under age twenty-one years under section sixty-five-c of  
20 the alcoholic beverage control law, or for possession of drug parapher-  
21 nalia under article thirty-nine of the general business law, with  
22 respect to any controlled substance, [marihuana] cannabis, alcohol or  
23 paraphernalia that was obtained as a result of such seeking or receiving  
24 of health care.

25 2. A person who is experiencing a drug or alcohol overdose or other  
26 life threatening medical emergency and, in good faith, seeks health care  
27 for himself or herself or is the subject of such a good faith request  
28 for health care, shall not be charged or prosecuted for a controlled  
29 substance offense under this article or a [marihuana] cannabis offense  
30 under article two hundred [twenty-one] twenty-two of this title, other  
31 than an offense involving sale for consideration or other benefit or  
32 gain, or charged or prosecuted for possession of alcohol by a person  
33 under age twenty-one years under section sixty-five-c of the alcoholic  
34 beverage control law, or for possession of drug paraphernalia under  
35 article thirty-nine of the general business law, with respect to any  
36 substance, [marihuana] cannabis, alcohol or paraphernalia that was  
37 obtained as a result of such seeking or receiving of health care.

38 3. Definitions. As used in this section the following terms shall have  
39 the following meanings:

40 (a) "Drug or alcohol overdose" or "overdose" means an acute condition  
41 including, but not limited to, physical illness, coma, mania, hysteria  
42 or death, which is the result of consumption or use of a controlled  
43 substance or alcohol and relates to an adverse reaction to or the quan-  
44 tity of the controlled substance or alcohol or a substance with which  
45 the controlled substance or alcohol was combined; provided that a  
46 patient's condition shall be deemed to be a drug or alcohol overdose if  
47 a prudent layperson, possessing an average knowledge of medicine and  
48 health, could reasonably believe that the condition is in fact a drug or  
49 alcohol overdose and (except as to death) requires health care.

50 (b) "Health care" means the professional services provided to a person  
51 experiencing a drug or alcohol overdose by a health care professional  
52 licensed, registered or certified under title eight of the education law  
53 or article thirty of the public health law who, acting within his or her  
54 lawful scope of practice, may provide diagnosis, treatment or emergency  
55 services for a person experiencing a drug or alcohol overdose.

1 4. It shall be an affirmative defense to a criminal sale controlled  
2 substance offense under this article or a criminal sale of [marihuana]  
3 cannabis offense under article two hundred [twenty-one] twenty-two of  
4 this title, not covered by subdivision one or two of this section, with  
5 respect to any controlled substance or [marihuana] cannabis which was  
6 obtained as a result of such seeking or receiving of health care, that:

7 (a) the defendant, in good faith, seeks health care for someone or for  
8 him or herself who is experiencing a drug or alcohol overdose or other  
9 life threatening medical emergency; and

10 (b) the defendant has no prior conviction for the commission or  
11 attempted commission of a class A-I, A-II or B felony under this arti-  
12 cle.

13 5. Nothing in this section shall be construed to bar the admissibility  
14 of any evidence in connection with the investigation and prosecution of  
15 a crime with regard to another defendant who does not independently  
16 qualify for the bar to prosecution or for the affirmative defense; nor  
17 with regard to other crimes committed by a person who otherwise quali-  
18 fies under this section; nor shall anything in this section be construed  
19 to bar any seizure pursuant to law, including but not limited to pursu-  
20 ant to section thirty-three hundred eighty-seven of the public health  
21 law.

22 6. The bar to prosecution described in subdivisions one and two of  
23 this section shall not apply to the prosecution of a class A-I felony  
24 under this article, and the affirmative defense described in subdivision  
25 four of this section shall not apply to the prosecution of a class A-I  
26 or A-II felony under this article.

27 § 58. Subdivision 1 of section 260.20 of the penal law, as amended by  
28 chapter 362 of the laws of 1992, is amended as follows:

29 1. He knowingly permits a child less than eighteen years old to enter  
30 or remain in or upon a place, premises or establishment where sexual  
31 activity as defined by article one hundred thirty, two hundred thirty or  
32 two hundred sixty-three of this [chapter] part or activity involving  
33 controlled substances as defined by article two hundred twenty of this  
34 [chapter or involving marihuana as defined by article two hundred twen-  
35 ty-one of this chapter] part is maintained or conducted, and he knows or  
36 has reason to know that such activity is being maintained or conducted;  
37 or

38 § 59. Section 89-h of the state finance law, as added by chapter 90 of  
39 the laws of 2014, is amended to read as follows:

40 § 89-h. Medical [marihuana] cannabis trust fund. 1. There is hereby  
41 established in the joint custody of the state comptroller and the  
42 commissioner of taxation and finance a special fund to be known as the  
43 "medical [marihuana] cannabis trust fund."

44 2. The medical [marihuana] cannabis trust fund shall consist of all  
45 moneys required to be deposited in the medical [marihuana] cannabis  
46 trust fund pursuant to the provisions of section four hundred ninety of  
47 the tax law.

48 3. The moneys in the medical [marihuana] cannabis trust fund shall be  
49 kept separate and shall not be commingled with any other moneys in the  
50 custody of the commissioner of taxation and finance and the state comp-  
51 troller.

52 4. The moneys of the medical [marihuana] cannabis trust fund, follow-  
53 ing appropriation by the legislature, shall be allocated upon a certifi-  
54 cate of approval of availability by the director of the budget as  
55 follows: (a) Twenty-two and five-tenths percent of the monies shall be  
56 transferred to the counties in New York state in which the medical



1 [marihuana] cannabis was manufactured and allocated in proportion to the  
2 gross sales originating from medical [marihuana] cannabis manufactured  
3 in each such county; (b) twenty-two and five-tenths percent of the  
4 moneys shall be transferred to the counties in New York state in which  
5 the medical [marihuana] cannabis was dispensed and allocated in propor-  
6 tion to the gross sales occurring in each such county; (c) five percent  
7 of the monies shall be transferred to the office of alcoholism and  
8 substance abuse services, which shall use that revenue for additional  
9 drug abuse prevention, counseling and treatment services; and (d) five  
10 percent of the revenue received by the department shall be transferred  
11 to the division of criminal justice services, which shall use that  
12 revenue for a program of discretionary grants to state and local law  
13 enforcement agencies that demonstrate a need relating to [title five-A  
14 of article thirty-three of the public health law] article three of the  
15 cannabis law; said grants could be used for personnel costs of state and  
16 local law enforcement agencies. For purposes of this subdivision, the  
17 city of New York shall be deemed to be a county.

18 § 60. The state finance law is amended by adding three new sections  
19 99-hh, 99-ii and 99-jj to read as follows:

20 § 99-hh. New York state cannabis revenue fund. 1. There is hereby  
21 established in the joint custody of the state comptroller and the  
22 commissioner of taxation and finance a special fund to be known as the  
23 "New York state cannabis revenue fund".

24 2. Such fund shall consist of all revenues received by the department  
25 of taxation and finance, pursuant to the provisions of article eigh-  
26 teen-A of the tax law and all other moneys appropriated thereto from any  
27 other fund or source pursuant to law. Nothing contained in this section  
28 shall prevent the state from receiving grants, gifts or bequests for the  
29 purposes of the fund as defined in this section and depositing them into  
30 the fund according to law.

31 3. The moneys in such fund shall be expended for the following  
32 purposes:

33 (a) Reasonable costs incurred by the department of taxation and  
34 finance for administering and collecting the taxes imposed by this part;  
35 provided, however, such costs shall not exceed four percent of tax  
36 revenues received.

37 (b) Reasonable costs incurred by the office of cannabis management for  
38 implementing, administering, and enforcing the marihuana regulation and  
39 taxation act to the extent those costs are not reimbursed pursuant to  
40 the cannabis law. This paragraph shall remain operative through the two  
41 thousand twenty-four--two thousand twenty-five fiscal year.

42 (c) Beginning with the two thousand twenty-one--two thousand twenty-  
43 two fiscal year and continuing through the two thousand thirty--two  
44 thousand thirty-one fiscal year, the commissioner of taxation and  
45 finance shall annually disburse the following sums for the purposes of  
46 data collection and reporting:

47 (i) Seven hundred fifty thousand dollars to the office of cannabis  
48 management policy to track and report data related to the licensing of  
49 cannabis businesses, including the geographic location, structure, and  
50 function of licensed cannabis businesses, and demographic data, includ-  
51 ing race, ethnicity, and gender, of license holders. The office of  
52 cannabis management shall publish reports on its findings annually and  
53 shall make the reports available to the public.

54 (ii) Seven hundred fifty thousand dollars to the department of crimi-  
55 nal justice services to track and report data related to any infrac-  
56 tions, violations, or criminal convictions that occur under any of the



1 remaining cannabis statutes. The department of criminal justice  
2 services shall publish reports on its findings annually and shall make  
3 the reports available to the public.

4 (iii) One million dollars to the state university of New York to  
5 research and evaluate the implementation and effect of the marihuana  
6 regulation and taxation act. No more than four percent of these monies  
7 may be used for expenses related to administrative costs of conducting  
8 such research, and to, if appropriate, make recommendations to the  
9 legislature and governor regarding possible amendments to the marihuana  
10 regulation and taxation act. The recipients of these funds shall publish  
11 reports on their findings at a minimum of every two years and shall make  
12 the reports available to the public. The research funded pursuant to  
13 this subdivision shall include but not necessarily be limited to:

14 (A) the impact on public health, including health costs associated  
15 with cannabis use, as well as whether cannabis use is associated with an  
16 increase or decrease in use of alcohol or other drugs;

17 (B) the impact of treatment for cannabis use disorder and the effec-  
18 tiveness of different treatment programs;

19 (C) public safety issues related to cannabis use, including studying  
20 the effectiveness of the packaging and labeling requirements and adver-  
21 tising and marketing restrictions contained in the act at preventing  
22 underage access to and use of cannabis and cannabis products, and study-  
23 ing the health-related effects among users of varying potency levels of  
24 cannabis and cannabis products;

25 (D) cannabis use rates, maladaptive use rates for adults and youth,  
26 and diagnosis rates of cannabis-related substance use disorders;

27 (E) cannabis market prices, illicit market prices, tax structures and  
28 rates, including an evaluation of how to best tax cannabis based on  
29 potency, and the structure and function of licensed cannabis businesses;

30 (F) whether additional protections are needed to prevent unlawful  
31 monopolies or anti-competitive behavior from occurring in the cannabis  
32 industry and, if so, recommendations as to the most effective measures  
33 for preventing such behavior;

34 (G) the economic impacts in the private and public sectors, including  
35 but not necessarily limited to, job creation, workplace safety, reven-  
36 ues, taxes generated for state and local budgets, and criminal justice  
37 impacts, including, but not necessarily limited to, impacts on law  
38 enforcement and public resources, short and long term consequences of  
39 involvement in the criminal justice system, and state and local govern-  
40 ment agency administrative costs and revenue;

41 (H) whether the regulatory agencies tasked with implementing and  
42 enforcing the marihuana regulation and taxation act are doing so  
43 consistent with the purposes of the act, and whether different agencies  
44 might do so more effectively; and

45 (I) any environmental issues related to cannabis production and the  
46 criminal prohibition of cannabis production.

47 (d) One million dollars annually, for a period of three years after  
48 the effective date of this section, to the state police to expand and  
49 enhance the drug recognition expert training program and technologies  
50 utilized in the process of maintaining road safety.

51 (i) The state police, in association with the office of cannabis  
52 management, are authorized to establish a pilot program for the testing  
53 and development of new technologies to detect drivers who are driving  
54 under the influence of cannabis.

55 (ii) Pursuant to such pilot program, a law enforcement officer, who  
56 upon reasonable suspicion and belief, identifies an individual who

1 appears to be driving under the influence of a drug as defined by  
2 section one hundred fourteen-a of the vehicle and traffic law, may, with  
3 the knowing and intelligent permission of the driver, utilize developing  
4 technologies for the purpose of identifying said drug within the system  
5 of the driver.

6 (iii) The objection to, compliance with, or results of the adminis-  
7 tration of said developing technologies may not be used against any  
8 driver for the purpose of advancing a criminal action. Additionally,  
9 saliva, or other biological material obtained from the driver shall not  
10 be admissible against the driver in any criminal proceeding, or retained  
11 for any reason.

12 (iv) The driver shall be notified of the results of any administration  
13 of said developing technologies and provided with documentation of said  
14 results.

15 (v) The pilot program established by subparagraph (i) of this para-  
16 graph shall be in effect for one year after the effective date of this  
17 section.

18 4. After the dispersal of moneys pursuant to subdivision three of this  
19 section, the remaining moneys in the fund deposited during the prior  
20 fiscal year shall be disbursed into the state lottery fund and two addi-  
21 tional sub-funds created within the cannabis revenue fund known as the  
22 drug treatment and public education fund and the community grants rein-  
23 vestment fund, as follows:

24 (a) twenty-five percent shall be deposited in the state lottery fund  
25 established by section ninety-two-c of this article; provided that such  
26 moneys shall be distributed to the department of education in accordance  
27 with subdivisions two and four of section ninety-two-c of this article  
28 and shall not be utilized for the purposes of subdivision three of such  
29 section. Monies allocated by this article may enhance, but shall not  
30 supplant, existing dedicated funds to the department of education;

31 (b) twenty-five percent shall be deposited in the drug treatment and  
32 public education fund established by section ninety-nine-ii of this  
33 article; and

34 (c) fifty percent shall be deposited in the community grants reinvest-  
35 ment fund established by section ninety-nine-jj of this article.

36 5. On or before the first day of February each year, the commissioner  
37 of taxation and finance shall provide a written report to the temporary  
38 president of the senate, speaker of the assembly, chair of the senate  
39 finance committee, chair of the assembly ways and means committee, the  
40 state comptroller and the public. Such report shall detail how the  
41 moneys of the fund were utilized during the preceding calendar year, and  
42 shall include:

43 (a) the amount of money dispersed from the fund and the process used  
44 for such disbursements;

45 (b) recipients of awards from the fund;

46 (c) the amount awarded to each recipient of an award from the fund;

47 (d) the purposes for which such awards were granted; and

48 (e) a summary financial plan for such monies which shall include esti-  
49 mates of all receipts and all disbursements for the current and succeed-  
50 ing fiscal years, along with the actual results from the prior fiscal  
51 year.

52 6. Moneys shall be payable directly from the cannabis revenue fund to  
53 the department of education.

54 § 99-ii. New York state drug treatment and public education fund. 1.  
55 There is hereby established in the joint custody of the state comp-

1 troller and the commissioner of taxation and finance a special fund to  
2 be known as the "New York state drug treatment public education fund".

3 2. Such fund shall consist of revenues received pursuant to the  
4 provisions of section ninety-nine-hh of this article and all other  
5 moneys appropriated thereto from any other fund or source pursuant to  
6 law. Nothing contained in this section shall prevent the state from  
7 receiving grants, gifts or bequests for the purposes of the fund as  
8 defined in this section and depositing them into the fund according to  
9 law.

10 3. The moneys in such fund shall be expended to the commissioner of  
11 the office of alcoholism and substance abuse and disbursed in consulta-  
12 tion with the commissioner of health for the following purposes:

13 (a) To develop and implement a youth-focused public health education  
14 and prevention campaign, including school-based prevention, early inter-  
15 vention, and health care services and programs to reduce the risk of  
16 cannabis and other substance use by school-aged children;

17 (b) To develop and implement a statewide public health campaign  
18 focused on the health effects of cannabis and legal use, including an  
19 ongoing education and prevention campaign that educates the general  
20 public, including parents, consumers and retailers, on the legal use of  
21 cannabis, the importance of preventing youth access, the importance of  
22 safe storage and preventing secondhand cannabis smoke exposure, informa-  
23 tion for pregnant or breastfeeding women, and the overconsumption of  
24 edibles;

25 (c) To provide substance use disorder treatment programs for youth and  
26 adults, with an emphasis on programs that are culturally and gender  
27 competent, trauma-informed, evidence-based and provide a continuum of  
28 care that includes screening and assessment (substance use disorder as  
29 well as mental health), early intervention, active treatment, family  
30 involvement, case management, overdose prevention, prevention of commu-  
31 nicable diseases related to substance use, relapse management for  
32 substance use and other co-occurring behavioral health disorders, voca-  
33 tional services, literacy services, parenting classes, family therapy  
34 and counseling services, medication-assisted treatments, psychiatric  
35 medication and psychotherapy; and

36 (d) To evaluate the programs being funded to determine their effec-  
37 tiveness.

38 4. On or before the first day of February each year, the commissioner  
39 of the office of alcoholism and substance abuse services shall provide a  
40 written report to the temporary president of the senate, speaker of the  
41 assembly, chair of the senate finance committee, chair of the assembly  
42 ways and means committee, chair of the senate committee on alcoholism  
43 and drug abuse, chair of the assembly alcoholism and drug abuse commit-  
44 tee, the state comptroller and the public. Such report shall detail how  
45 the moneys of the fund were utilized during the preceding calendar year,  
46 and shall include:

47 (a) the amount of money dispersed from the fund and the award process  
48 used for such disbursements;

49 (b) recipients of awards from the fund;

50 (c) the amount awarded to each recipient of an award from the fund;

51 (d) the purposes for which such awards were granted; and

52 (e) a summary financial plan for such monies which shall include esti-  
53 mates of all receipts and all disbursements for the current and succeed-  
54 ing fiscal years, along with the actual results from the prior fiscal  
55 year.



1 5. Moneys shall be payable from the fund on the audit and warrant of  
2 the comptroller on vouchers approved and certified by the commissioner  
3 of education.

4 § 99-jj. New York state community grants reinvestment fund. 1. There  
5 is hereby established in the joint custody of the state comptroller and  
6 the commissioner of taxation and finance a special fund to be known as  
7 the "New York state community grants reinvestment fund".

8 2. Such fund shall consist of all revenues received pursuant to the  
9 provisions of section ninety-nine-hh of this article and all other  
10 moneys appropriated thereto from any other fund or source pursuant to  
11 law. Nothing contained in this section shall prevent the state from  
12 receiving grants, gifts or bequests for the purposes of the fund as  
13 defined in this section and depositing them into the fund according to  
14 law.

15 3. The fund shall be governed and administered by an executive steer-  
16 ing committee of thirteen members, including a representative from the  
17 office of children and family services, the labor department, and the  
18 health department appointed by the governor, and a representative of the  
19 education department appointed by the board of regents. In addition, the  
20 majority and minority leaders of the senate and assembly shall each  
21 appoint one member to the executive steering committee, the comptroller  
22 shall appoint three additional members, and the attorney general shall  
23 appoint two additional members from relevant local government entities  
24 and community-based organizations. Every effort shall be made to ensure  
25 a balanced and diverse committee representing the regions and demograph-  
26 ics of the state, which shall have expertise in job placement, homeless-  
27 ness and housing, behavioral health and substance use disorder treat-  
28 ment, and effective rehabilitative treatment for adults and juveniles,  
29 and shall include representatives of organizations serving communities  
30 impacted by past federal and state drug policies.

31 4. The moneys in such fund shall be expended by the executive steering  
32 committee to qualified community-based nonprofit organizations and  
33 approved local government entities for the purpose of reinvesting in  
34 communities disproportionately affected by past federal and state drug  
35 policies. The grants from this program shall be used, including but not  
36 limited to, to support job placement, job skills services, adult educa-  
37 tion, mental health treatment, substance use disorder treatment, hous-  
38 ing, community banking, nutrition services, afterschool and child care  
39 services, system navigation services, legal services to address barriers  
40 to reentry, and linkages to medical care, women's health services and  
41 other community-based supportive services. The grants from this program  
42 may also be used to further support the social and economic equity  
43 program created by article four of the cannabis law and distributed  
44 through the office of cannabis management.

45 5. On or before the first day of February each year, the commissioner  
46 of the office of children and family services shall provide a written  
47 report to the temporary president of the senate, speaker of the assem-  
48 bly, chair of the senate finance committee, chair of the assembly ways  
49 and means committee, chair of the senate committee on children and fami-  
50 lies, chair of the assembly children and families committee, chair of  
51 the senate committee on labor, chair of the assembly labor committee,  
52 chair of the senate committee on health, chair of the assembly health  
53 committee, chair of the senate committee on education, chair of the  
54 assembly education committee, the state comptroller and the public. Such  
55 report shall detail how the monies of the fund were utilized during the  
56 preceding calendar year, and shall include:

1 (a) the amount of money dispersed from the fund and the award process  
2 used for such disbursements;

3 (b) recipients of awards from the fund;

4 (c) the amount awarded to each recipient of an award from the fund;

5 (d) the purposes for which such awards were granted; and

6 (e) a summary financial plan for such monies which shall include esti-  
7 mates of all receipts and all disbursements for the current and succeed-  
8 ing fiscal years, along with the actual results from the prior fiscal  
9 year.

10 6. Moneys shall be payable from the fund on the audit and warrant of  
11 the comptroller on vouchers approved and certified by the executive  
12 steering committee.

13 § 61. Severability. If any provision or term of this act is for any  
14 reason declared unconstitutional or invalid or ineffective by any compe-  
15 tent jurisdiction, such decision shall not affect the validity of the  
16 effectiveness of the remaining portions of this act or any part thereof.

17 § 62. This act shall take effect immediately; provided, however that  
18 if section 3 of part XX of chapter 59 of the laws of 2019 shall not have  
19 taken effect on or before such date then section thirty-five of this act  
20 shall take effect on the same date and in the same manner as such chap-  
21 ter of the laws of 2019 takes effect; provided, further, that sections  
22 thirty-nine and forty of this act shall take effect April 1, 2020, and  
23 shall apply on and after such date: (a) to the cultivation of cannabis  
24 flower and cannabis trim transferred by a cultivator who is not a whole-  
25 saler; (b) to the cultivation of cannabis flower and cannabis trim sold  
26 or transferred to a retail dispensary by a cultivator who is a whole-  
27 saler; and (c) to the sale or transfer of adult use cannabis products to  
28 a retail dispensary; provided, further, that the amendments to article  
29 179 of the penal law made by section fifty-six of this act shall not  
30 affect the repeal of such article and shall be deemed to be repealed  
31 therewith; provided, further, that the amendments to section 89-h of the  
32 state finance law made by section fifty-nine of this act shall not  
33 affect the repeal of such section and shall be deemed repealed there-  
34 with; and provided, further, that the amendments to subdivision 1 of  
35 section 171-a of the tax law made by section thirty-five of this act  
36 shall not affect the expiration of such subdivision and shall expire  
37 therewith, when upon such date the provisions of section thirty-six of  
38 this act shall take effect.



# STATE OF NEW YORK

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1527--B

2019-2020 Regular Sessions

## IN SENATE

January 15, 2019

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Introduced by Sens. KRUEGER, BAILEY, BIAGGI, COMRIE, GIANARIS, HOYLMAN, JACKSON, KENNEDY, LIU, MAY, MONTGOMERY, 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

LBD07592-11-9

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 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:

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

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

5 CHAPTER 7-A OF THE CONSOLIDATED LAWS

6 CANNABIS LAW

7 ARTICLE 1

8 SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT;

9 DEFINITIONS

10 Section 1. Short title.

11 2. Legislative findings and intent

12 3. Definitions.

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

15 § 2. Legislative findings and intent. The legislature finds that  
16 existing marihuana laws have not been beneficial to the welfare of the  
17 general public. Existing laws have been ineffective in reducing or curb-  
18 ing marihuana use and have instead resulted in devastating collateral  
19 consequences that inhibit an otherwise law-abiding citizen's ability to  
20 access housing, employment opportunities, and other vital services.  
21 Existing laws have also created an illicit market which represents a  
22 threat to public health and reduces the ability of the legislature to  
23 deter the accessing of marihuana by minors. Existing marihuana laws have  
24 also disproportionately impacted African-American and Latino communi-  
25 ties.

26 The intent of this act is to regulate, control, and tax marihuana,  
27 heretofore known as cannabis, generate millions of dollars in new reven-  
28 ue, prevent access to cannabis by those under the age of twenty-one  
29 years, reduce the illegal drug market and reduce violent crime, reduce  
30 participation of otherwise law-abiding citizens in the illicit market,  
31 end the racially disparate impact of existing cannabis laws and create  
32 new industries and increase employment.

33 Nothing in this act is intended to limit the authority of any district  
34 government agency or office or employers to enact and enforce policies  
35 pertaining to cannabis in the workplace, to allow driving under the  
36 influence of cannabis, to allow individuals to engage in conduct that  
37 endangers others, to allow smoking cannabis in any location where smok-  
38 ing tobacco is prohibited, or to require any individual to engage in any  
39 conduct that violates federal law or to exempt anyone from any require-  
40 ment of federal law or pose any obstacle to the federal enforcement of  
41 federal law.

42 It is the intent of this act that no child shall be the subject of a  
43 child neglect or abuse investigation or proceeding based solely on a



1 parent's alleged cannabis use, or activity made lawful by this act. A  
2 newborn child's positive toxicology result for cannabis, is not suffi-  
3 cient on its own to support a finding of child neglect or abuse. Enact-  
4 ment of this act shall provide sufficient basis for New York state to  
5 favorably resolve open investigations and to amend and seal individuals'  
6 family court records and records of indicated child abuse or neglect  
7 reports currently in the statewide central register of child abuse and  
8 maltreatment based solely on the use of cannabis or where the reporter  
9 of suspected abuse or neglect was a law enforcement agency or staff  
10 person and the report was based solely upon the presence of a child  
11 during a cannabis-related arrest.

12 The legislature further finds and declares that it is in the best  
13 interest of the state to regulate medical cannabis, adult-use cannabis,  
14 and hemp extracts under one independent agency, known as the office of  
15 cannabis management.

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

20 1. "Applicant" means a resident of New York state aged twenty-one  
21 years or older applying for any cannabis or hemp license or special use  
22 permit issued by the office of cannabis management.

23 2. "Cannabinoid extractor" means a person licensed by the office to  
24 acquire, possess, extract and manufacture hemp extract from licensed  
25 cannabinoid growers for the manufacture and sale of hemp extract  
26 products marketed for cannabinoid content and used or intended for human  
27 or animal consumption or use.

28 3. "Cannabinoid grower" means a person licensed by the office, and in  
29 compliance with article twenty-nine of the agriculture and markets law,  
30 to acquire, possess, cultivate, and sell hemp extract for its cannabi-  
31 noid content.

32 4. "Cannabis" means all parts of the plant of the genus Cannabis,  
33 whether growing or not; the seeds thereof; the resin extracted from any  
34 part of the plant; and every compound, manufacture, salt, derivative,  
35 mixture, or preparation of the plant, its seeds or resin. It does not  
36 include the mature stalks of the plant, fiber produced from the stalks,  
37 oil or cake made from the seeds of the plant, any other compound, manu-  
38 facture, salt, derivative, mixture, or preparation of the mature stalks  
39 (except the resin extracted therefrom), fiber, oil, or cake, or the  
40 sterilized seed of the plant which is incapable of germination. It does  
41 not include hemp extract as defined by this section.

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

44 6. "Cannabis flower" means the flower of a plant of the genus Cannabis  
45 that has been harvested, dried, and cured, and prior to any processing  
46 whereby the plant material is transformed into a concentrate, including,  
47 but not limited to, concentrated cannabis, or an edible or topical prod-  
48 uct containing cannabis or concentrated cannabis and other ingredients.  
49 Cannabis flower excludes leaves and stem.

50 7. "Cannabis product" or "adult-use cannabis" means cannabis, concen-  
51 trated cannabis, and cannabis-infused products for use by a cannabis  
52 consumer.

53 8. "Cannabis-infused products" means products that have been manufac-  
54 tured and contain either cannabis or concentrated cannabis and other  
55 ingredients that are intended for use or consumption.

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

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

7 11. "Certification" means a certification made under this chapter.

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

14 13. "Certified patient" means a patient who is a resident of New York  
15 state or receiving care and treatment in New York state as determined by  
16 the executive director in regulation, and is certified under this chap-  
17 ter.

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

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

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

40 17. "Cultivation" means growing, cloning, harvesting, drying, curing,  
41 grading, and trimming of cannabis plants for sale to certain other cate-  
42 gories of cannabis license- and permit-holders.

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

46 19. "Designated caregiver facility" means a general hospital or resi-  
47 dential health care facility operating pursuant to article twenty-eight  
48 of the public health law; an adult care facility operating pursuant to  
49 title two of article seven of the social services law; a community  
50 mental health residence established pursuant to section 41.44 of the  
51 mental hygiene law; a hospital operating pursuant to section 7.17 of the  
52 mental hygiene law; a mental hygiene facility operating pursuant to  
53 article thirty-one of the mental hygiene law; an inpatient or residen-  
54 tial treatment program certified pursuant to article thirty-two of the  
55 mental hygiene law; a residential facility for the care and treatment of  
56 persons with developmental disabilities operating pursuant to article

1 sixteen of the mental hygiene law; a residential treatment facility for  
2 children and youth operating pursuant to article thirty-one of the  
3 mental hygiene law; a private or public school; research institution  
4 with an internal review board; or any other facility as determined by  
5 the executive director in regulation; that registers with the office to  
6 assist one or more certified patients with the acquisition, possession,  
7 delivery, transportation or administration of medical cannabis.

8 20. "Designated caregiver" means an individual designated by a certi-  
9 fied patient in a registry application. A certified patient may desig-  
10 nate up to five designated caregivers not counting designated caregiver  
11 facilities or designated caregiver facilities' employees.

12 21. "Designated caregiver facility employee" means an employee of a  
13 designated caregiver facility.

14 22. "Distributor" means any person who sells at wholesale any cannabis  
15 product, except medical cannabis, for the sale of which a license is  
16 required under the provisions of this chapter.

17 23. "Executive director" means the executive director of the office of  
18 cannabis management.

19 24. "Form of medical cannabis" means characteristics of the medical  
20 cannabis recommended or limited for a particular certified patient,  
21 including the method of consumption and any particular strain, variety,  
22 and quantity or percentage of cannabis or particular active ingredient.

23 25. "Hemp extract" means any product made or derived from industrial  
24 hemp, including the seeds thereof and all derivatives, extracts, canna-  
25 binoids, isomers, acids, salts, and salts of isomers, whether growing or  
26 not, with a delta-9 tetrahydrocannabinol concentration of not more than  
27 an amount determined by the office in regulation, used or intended for  
28 human or animal consumption or use for its cannabinoid content, as  
29 determined by the executive director in regulation. Hemp extract  
30 excludes industrial hemp used or intended exclusively for an industrial  
31 purpose.

32 26. "Industrial hemp" means the plant *Cannabis sativa* L. and any part  
33 of such plant, including the seeds thereof and all derivatives,  
34 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
35 whether growing or not, with a delta-9 tetrahydrocannabinol concen-  
36 tration of not more than three-tenths of one percent on a dry weight  
37 basis, used or intended for an industrial purpose.

38 27. "Labor peace agreement" means an agreement between an entity and a  
39 labor organization that, at a minimum, protects the state's proprietary  
40 interests by prohibiting labor organizations and members from engaging  
41 in picketing, work stoppages, boycotts, and any other economic interfer-  
42 ence with the entity.

43 28. "Laboratory testing facility" means any independent laboratory  
44 capable of testing cannabis and cannabis products for adult-use and  
45 medical-use; hemp extract; or for all categories of cannabis and canna-  
46 bis products as per regulations set forth by the office.

47 29. "License" means a written authorization issued by the office of  
48 cannabis management permitting persons to engage in a specified activity  
49 with respect to cannabis or cannabis products.

50 30. "Medical cannabis" means cannabis as defined in this section,  
51 intended for a certified medical use, as determined by the executive  
52 director in consultation with the commissioner of health.

53 31. "Microbusiness" means a licensee that may act as a cannabis  
54 producer for the cultivation of cannabis, a cannabis processor, and a  
55 cannabis retailer under this article; provided such licensee complies  
56 with all requirements imposed by this article on licensed producers,

1 processors, and retailers to the extent the licensee engages in such  
2 activities. A "microbusiness" may distribute its cannabis and cannabis  
3 products to other licensed cannabis businesses and may deliver cannabis  
4 and cannabis products to customers.

5 32. "Nursery" means a licensee that produces only clones, immature  
6 plants, seeds, and other agricultural products used specifically for the  
7 planting, propagation, and cultivation of cannabis.

8 33. "Office" or "office of cannabis management" means the New York  
9 state office of cannabis management.

10 34. "On-site consumption" means the consumption of cannabis in an area  
11 licensed for such activity by the office.

12 35. "Owner" means an individual with an aggregate ownership interest  
13 of twenty percent or more in a cannabis business licensed pursuant to  
14 this chapter, unless such interest is solely a security, lien, or encum-  
15 brance, or an individual that will be participating in the direction,  
16 control, or management of the licensed cannabis business.

17 36. "Package" means any container or receptacle used for holding  
18 cannabis or cannabis products.

19 37. "Permit" means a permit issued pursuant to this chapter.

20 38. "Permittee" means any person to whom a permit has been issued  
21 pursuant to this chapter.

22 39. "Practitioner" means a practitioner who: (i) is authorized to  
23 prescribe controlled substances within the state, (ii) by training or  
24 experience is qualified to treat patients; and (iii) completes, at a  
25 minimum, a two-hour course as determined by the executive director in  
26 regulation. A person's status as a practitioner under this chapter is  
27 deemed to be a "license" for purposes of section thirty-three hundred  
28 ninety of the public health law and shall be subject to the same revoca-  
29 tion process.

30 40. "Processor" means a licensee that extracts concentrated cannabis  
31 and/or compounds, blends, extracts, infuses, or otherwise manufactures  
32 concentrated cannabis or cannabis products, but not the cultivation of  
33 the cannabis contained in the cannabis product.

34 41. "Registered organization" means an organization registered under  
35 article three of this chapter.

36 42. "Registry application" means an application properly completed and  
37 filed with the office of cannabis management by a certified patient  
38 under article three of this chapter.

39 43. "Registry identification card" means a document that identifies a  
40 certified patient or designated caregiver, as provided under this chap-  
41 ter.

42 44. "Retail sale" means to solicit or receive an order for, to keep or  
43 expose for sale, and to keep with intent to sell, made by any person,  
44 whether principal, proprietor, agent, or employee, of any cannabis,  
45 cannabis product, or hemp extract product to a cannabis consumer for any  
46 purpose other than resale.

47 45. "Retailer" means any person who sells at retail any cannabis prod-  
48 uct, the sale of which a license is required under the provisions of  
49 this chapter.

50 46. "Smoking" means the burning of a lighted cigar, cigarette, pipe or  
51 any other matter or substance which contains tobacco or cannabis  
52 provided that it does not include the use of an electronic smoking  
53 device that creates an aerosol or vapor, unless local laws or ordinances  
54 or state statutes extend prohibitions on smoking to electronic smoking  
55 devices.

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

4 48. "Warehouse" means and includes a place in which cannabis products  
5 are housed or stored.

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

10 ARTICLE 2

11 NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

12 Section 9. Establishment of an office of cannabis management.

13 10. Executive director.

14 11. Functions, powers and duties of the office and executive  
15 director.

16 12. Rulemaking authority.

17 13. State cannabis advisory board.

18 14. Disposition of moneys received for license fees.

19 15. Legal presumptions.

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

22 17. Formal hearings; notice and procedure.

23 18. Ethics, transparency and accountability.

24 § 9. Establishment of an office of cannabis management. There is here-  
25 by established, within the division of alcoholic beverage control, an  
26 independent office of cannabis management, which shall have exclusive  
27 jurisdiction to exercise the powers and duties provided by this chapter.  
28 The office shall exercise its authority by and through an executive  
29 director.

30 § 10. Executive director. The executive director shall be appointed  
31 by the governor and confirmed by the senate. The executive director of  
32 the state office of cannabis management shall receive an annual salary  
33 not to exceed an amount appropriated therefor by the legislature and his  
34 or her expenses actually and necessarily incurred in the performance of  
35 official duties, unless otherwise provided by the legislature.

36 § 11. Functions, powers and duties of the office and executive direc-  
37 tor. The office of cannabis management, by and through its executive  
38 director, shall have the following powers and duties:

39 1. To issue or refuse to issue any registration, license or permit  
40 provided for in this chapter, and to issue temporary or provisional  
41 licenses.

42 2. To issue or refuse to issue registrations, licenses, permits, and  
43 temporary or provisional licenses in a manner that prioritizes social  
44 equity applicants, and small business opportunities and concerns, avoids  
45 market dominance in sectors of the industry, and reflects the demograph-  
46 ics of the state.

47 3. To limit, or not to limit, in the executive director's discretion,  
48 the number of registrations, licenses and permits of each class to be  
49 issued within the state or any political subdivision thereof, and in  
50 connection therewith to prohibit the acceptance of applications for such  
51 classes which have been so limited. Such limitations shall consider  
52 consumer access, market demand, and geographic diversity.

53 4. To develop testing standards and certify testing laboratories in  
54 the state.

1 5. To regulate advertising, marketing, branding, packaging, and label-  
2 ing, including regulating the accuracy of information about cannabis and  
3 cannabis products and restricting marketing and advertising to youth.

4 6. To revoke, cancel or suspend for cause any registration, license,  
5 or permit issued under this chapter and/or to impose a civil penalty for  
6 cause against any holder of a registration, license, or permit issued  
7 pursuant to this chapter.

8 7. To fix by rule the standards of cultivation and processing of  
9 medical cannabis, adult use cannabis and hemp extract, including but not  
10 limited to, the ability to regulate potency and the types of products  
11 which may be manufactured and/or processed, in order to ensure the  
12 health and safety of the public and the use of proper ingredients and  
13 methods in the manufacture of all medical cannabis, adult use cannabis,  
14 and hemp extract to be sold or consumed in the state.

15 8. To hold hearings, subpoena witnesses, compel their attendance,  
16 administer oaths, to examine any person under oath and in connection  
17 therewith to require the production of any books or records relative to  
18 the inquiry. A subpoena issued under this section shall be regulated by  
19 the civil practice law and rules.

20 9. To appoint any necessary directors, deputies, counsels, assistants,  
21 investigators, and other employees within the limits provided by appro-  
22 priation. Investigators so employed by the office shall be deemed to be  
23 peace officers for the purpose of enforcing the provisions of the canna-  
24 bis control law or judgements or orders obtained for violation thereof,  
25 with all the powers set forth in section 2.20 of the criminal procedure  
26 law. Directors, deputies, and counsels shall be in the exempt class of  
27 the civil service. The other assistants, investigators and employees of  
28 the office shall all be in the competitive class of the civil service.  
29 Employees transferred to the office shall be transferred without further  
30 examination or qualification to the same or similar titles and shall  
31 remain in the same collective bargaining units and shall retain their  
32 respective civil service classifications, status and rights pursuant to  
33 their collective bargaining units and collective bargaining agreements.  
34 Employees serving in positions in newly created titles shall be assigned  
35 to the appropriate collective bargaining unit.

36 10. To remove any employee of the office for cause, after giving such  
37 employee a copy of the charges against him or her in writing, and an  
38 opportunity to be heard thereon. Any action taken under this subdivision  
39 shall be subject to and in accordance with the civil service law.

40 11. To inspect or provide for the inspection at any time of any prem-  
41 ises where medical cannabis, adult use cannabis, or hemp extract is  
42 cultivated, processed, stored, distributed or sold.

43 12. To prescribe forms of applications for registrations, licenses and  
44 permits under this chapter and of all reports deemed necessary by the  
45 office.

46 13. To delegate the powers provided in this section to such other  
47 officers or employees or other state agencies as may be deemed appropri-  
48 ate by the executive director.

49 14. To appoint such advisory groups and committees as the executive  
50 director deems necessary to provide assistance to the office to carry  
51 out the purposes and objectives of this chapter.

52 15. To exercise the powers and perform the duties in relation to the  
53 administration of the office as are necessary but not specifically vest-  
54 ed by this chapter, including but not limited to budgetary and fiscal  
55 matters in consultation with the cannabis advisory board.

1 16. To develop and establish minimum criteria for certifying employees  
2 to work in the cannabis industry, including the establishment of a  
3 cannabis workers certification program.

4 17. To enter into contracts, memoranda of understanding, and agree-  
5 ments as deemed appropriate by the executive director to effectuate the  
6 policy and purpose of this chapter.

7 18. To issue and administer low interest or zero-interest loans and  
8 other assistance to qualified social equity applicants.

9 19. If the executive director finds that public health, safety, or  
10 welfare imperatively requires emergency action, and incorporates a find-  
11 ing to that effect in an order, summary suspension of a license may be  
12 ordered, effective on the date specified in such order or upon service  
13 of a certified copy of such order on the licensee, whichever shall be  
14 later, pending proceedings for revocation or other action. These  
15 proceedings shall be promptly instituted and determined. In addition,  
16 the executive director may order the administrative seizure of product,  
17 issue a stop order, or take any other action necessary to effectuate and  
18 enforce the policy and purpose of this chapter.

19 20. To issue regulations, declaratory rulings, guidance and industry  
20 advisories.

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

25 2. The office shall have the power to promulgate any and all necessary  
26 rules and regulations governing the cultivation, manufacture, process-  
27 ing, transportation, distribution, testing, delivery, and sale of  
28 medical cannabis, adult-use cannabis, and hemp extract, including but  
29 not limited to the registration of organizations authorized to sell  
30 medical cannabis, the licensing and/or permitting of adult-use cannabis  
31 cultivators, processors, cooperatives, distributors, laboratories, and  
32 retailers, and the licensing of hemp extract producers and processors  
33 pursuant to this chapter, including, but not limited to:

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

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

38 (c) the books and records to be created and maintained by registered  
39 organizations, licensees, and permittees, including the reports to be  
40 made thereon to the office, and inspection of any and all books and  
41 records maintained by any registered organization, licensee, or permittee  
42 and on the premise of any registered organization, licensee, or permit-  
43 tee;

44 (d) methods of producing, processing, and packaging cannabis, medical  
45 cannabis, cannabis-infused products, concentrated cannabis, and hemp  
46 extract; conditions of sanitation, and standards of ingredients, quali-  
47 ty, and identity of cannabis products cultivated, processed, packaged,  
48 or sold by registered organizations and licensees;

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

54 (f) hearing procedures and additional causes for cancellation, revoca-  
55 tion, and/or civil penalties against any person registered, licensed, or  
56 permitted by the authority.

S. 1527--B

10

1 3. The office shall promulgate rules and regulations that are designed  
2 to:

3 (a) prevent the distribution of adult-use cannabis to persons under  
4 twenty-one years of age;

5 (b) prevent the revenue from the sale of cannabis from going to crimi-  
6 nal enterprises, gangs, and cartels;

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

8 (d) prevent cannabis activity that is legal under state law from being  
9 used as a cover or pretext for the trafficking of other illegal drugs or  
10 other illegal activity;

11 (e) prevent drugged driving and the exacerbation of other adverse  
12 public health consequences associated with the use of cannabis;

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

14 (g) prevent the possession and use of cannabis on federal property.

15 4. The office, in consultation with the department of agriculture and  
16 markets and the department of environmental conservation, shall promul-  
17 gate necessary rules and regulations governing the safe production of  
18 cannabis, including environmental and energy standards and restrictions  
19 on the use of pesticides.

20 § 13. State cannabis advisory board. 1. The executive director shall  
21 establish within the office a state cannabis advisory board prior to  
22 engaging in rulemaking, which may consider all matters submitted to it  
23 by the executive director, and advise the office and the legislature on  
24 cannabis cultivation, processing, distribution, transport, equity in the  
25 cannabis industry, public health concerns related to cannabis, and on  
26 the testing and sale of cannabis and cannabis products.

27 2. The executive director of the office shall serve as the chairperson  
28 of the board. The vice chairperson shall be elected from among the  
29 members of the board by the members of such board, and shall represent  
30 the board in the absence of the chairperson at all official board func-  
31 tions.

32 3. The members of the board shall be appointed by the temporary presi-  
33 dent of the senate and the speaker of the assembly and shall receive no  
34 compensation for their services but shall be allowed their actual and  
35 necessary expenses incurred in the performance of their duties as board  
36 members.

37 4. The executive director shall promulgate regulations establishing  
38 the number of members on the board, the term of the board members and  
39 any other terms or conditions regarding the state cannabis advisory  
40 board, including that such board shall include members from the  
41 geographic regions of the state.

42 5. Every effort shall be made to ensure a balanced and diverse board,  
43 which shall have expertise in public and behavioral health, substance  
44 use disorder treatment, effective rehabilitative treatment for adults  
45 and juveniles, economic development, environmental conservation, job  
46 training and placement, criminal justice, and drug policy. Further, the  
47 board shall include residents from communities most impacted by cannabis  
48 prohibition, people with prior drug convictions, the formerly incarcer-  
49 ated, and representatives of organizations serving communities impacted  
50 by past federal and state drug policies.

51 § 14. Disposition of moneys received for license fees. The office  
52 shall establish a scale of application, licensing, and renewal fees,  
53 based upon the cost of enforcing this chapter and the size of the canna-  
54 bis business being licensed, as follows:

55 1. The office shall charge each registered organization, licensee and  
56 permittee a registration, licensure or permit fee, and renewal fee, as



1 applicable. The fees may vary depending upon the nature and scope of  
2 the different registration, licensure and permit activities.

3 2. The total fees assessed pursuant to this chapter shall be set at an  
4 amount that will generate sufficient total revenue to, at a minimum,  
5 fully cover the total costs of administering this chapter.

6 3. All registration and licensure fees shall be set on a scaled basis  
7 by the office, dependent on the size and capacity of the business.

8 4. The office shall deposit all fees collected in the New York state  
9 cannabis revenue fund established pursuant to section ninety-nine-hh of  
10 the state finance law.

11 § 15. Legal presumptions. The action, proceedings, authority, and  
12 orders of the office in enforcing the provisions of the cannabis law and  
13 applying them to specific cases shall at all times be regarded as in  
14 their nature judicial, and shall be treated as prima facie just and  
15 legal.

16 § 16. Violations of cannabis laws or regulations; penalties and  
17 injunctions. 1. A person who willfully violates any provision of this  
18 chapter, or any regulation lawfully made or established by any public  
19 officer under authority of this chapter, the punishment for violating  
20 which is not otherwise prescribed by this chapter or any other law, is  
21 punishable by imprisonment not exceeding one year, or by a fine not  
22 exceeding five thousand dollars or by both.

23 2. Any person who violates, disobeys or disregards any term or  
24 provision of this chapter or of any lawful notice, order or regulation  
25 pursuant thereto for which a civil or criminal penalty is not otherwise  
26 expressly prescribed by law, shall be liable to the people of the state  
27 for a civil penalty of not to exceed five thousand dollars for every  
28 such violation.

29 3. The penalty provided for in subdivision one of this section may be  
30 recovered by an action brought by the executive director in any court of  
31 competent jurisdiction.

32 4. Such civil penalty may be released or compromised by the executive  
33 director before the matter has been referred to the attorney general,  
34 and where such matter has been referred to the attorney general, any  
35 such penalty may be released or compromised and any action commenced to  
36 recover the same may be settled and discontinued by the attorney general  
37 with the consent of the executive director.

38 5. It shall be the duty of the attorney general upon the request of  
39 the executive director to bring an action for an injunction against any  
40 person who violates, disobeys or disregards any term or provision of  
41 this chapter or of any lawful notice, order or regulation pursuant ther-  
42 eto; provided, however, that the executive director shall furnish the  
43 attorney general with such material, evidentiary matter or proof as may  
44 be requested by the attorney general for the prosecution of such an  
45 action.

46 6. It is the purpose of this section to provide additional and cumula-  
47 tive remedies, and nothing herein contained shall abridge or alter  
48 rights of action or remedies now or hereafter existing, nor shall any  
49 provision of this section, nor any action done by virtue of this  
50 section, be construed as estopping the state, persons or municipalities  
51 in the exercising of their respective rights.

52 § 17. Formal hearings; notice and procedure. 1. The executive direc-  
53 tor, or any person designated by him or her for this purpose, may issue  
54 subpoenas and administer oaths in connection with any hearing or inves-  
55 tigation under or pursuant to this chapter, and it shall be the duty of  
56 the executive director and any persons designated by him or her for such

1 purpose to issue subpoenas at the request of and upon behalf of the  
2 respondent.

3 2. The executive director and those designated by him or her shall not  
4 be bound by the laws of evidence in the conduct of hearing proceedings,  
5 but the determination shall be founded upon sufficient evidence to  
6 sustain it.

7 3. Notice of hearing shall be served at least fifteen days prior to  
8 the date of the hearing, provided that, whenever because of danger to  
9 the public health, safety or welfare it appears prejudicial to the  
10 interests of the people of the state to delay action for fifteen days,  
11 the executive director may serve the respondent with an order requiring  
12 certain action or the cessation of certain activities immediately or  
13 within a specified period of less than fifteen days.

14 4. Service of notice of hearing or order shall be made by personal  
15 service or by registered or certified mail. Where service, whether by  
16 personal service or by registered or certified mail, is made upon an  
17 incompetent, partnership, or corporation, it shall be made upon the  
18 person or persons designated to receive personal service by article  
19 three of the civil practice law and rules.

20 5. At a hearing, the respondent may appear personally, shall have the  
21 right of counsel, and may cross-examine witnesses against him or her and  
22 produce evidence and witnesses in his or her behalf.

23 6. Following a hearing, the executive director may make appropriate  
24 determinations and issue a final order in accordance therewith.

25 7. The executive director may adopt, amend and repeal administrative  
26 rules and regulations governing the procedures to be followed with  
27 respect to hearings, such rules to be consistent with the policy and  
28 purpose of this chapter and the effective and fair enforcement of its  
29 provisions.

30 8. The provisions of this section shall be applicable to all hearings  
31 held pursuant to this chapter, except where other provisions of this  
32 chapter applicable thereto are inconsistent therewith, in which event  
33 such other provisions shall apply.

34 § 18. Ethics, transparency and accountability. No member of the  
35 office or any officer, deputy, assistant, inspector or employee thereof  
36 shall have any interest, direct or indirect, either proprietary or by  
37 means of any loan, mortgage or lien, or in any other manner, in or on  
38 any premises where adult use cannabis, medical cannabis or hemp extract  
39 is cultivated, processed, distributed or sold; nor shall he or she have  
40 any interest, direct or indirect, in any business wholly or partially  
41 devoted to the cultivation, processing, distribution, sale, transporta-  
42 tion or storage of adult use cannabis, medical cannabis or hemp extract,  
43 or own any stock in any corporation which has any interest, proprietary  
44 or otherwise, direct or indirect, in any premises where adult use canna-  
45 bis, medical cannabis or hemp extract is cultivated, processed, distrib-  
46 uted or sold, or in any business wholly or partially devoted to the  
47 cultivation, processing, distribution, sale, transportation or storage  
48 of adult use cannabis, medical cannabis or hemp extract, or receive any  
49 commission or profit whatsoever, direct or indirect, from any person  
50 applying for or receiving any license or permit provided for in this  
51 chapter, or hold any other elected or appointed public office in the  
52 state or in any political subdivision. Anyone who violates any of the  
53 provisions of this section shall be removed and shall divulge themselves  
54 of such direct or indirect interests, in addition to any other penalty  
55 provided by law.

1 ARTICLE 3  
2 MEDICAL CANNABIS

- 3 Section 30. Certification of patients.  
4 31. Lawful medical use.  
5 32. Registry identification cards.  
6 33. Registration as a designated caregiver facility.  
7 34. Registered organizations.  
8 35. Registering of registered organizations.  
9 36. Reports of registered organizations.  
10 37. Evaluation; research programs; report by office.  
11 38. Cannabis research license.  
12 39. Registered organizations and adult-use cannabis.  
13 40. Relation to other laws.  
14 41. Protections for the medical use of cannabis.  
15 42. Regulations.  
16 43. Suspend; terminate.  
17 44. Pricing.

18 § 30. Certification of patients. 1. A patient certification may only  
19 be issued if:

20 (a) the patient has a condition, which shall be specified in the  
21 patient's health care record;

22 (b) the practitioner by training or experience is qualified to treat  
23 the condition;

24 (c) the patient is under the practitioner's continuing care for the  
25 condition; and

26 (d) in the practitioner's professional opinion and review of past  
27 treatments, the patient is likely to receive therapeutic or palliative  
28 benefit from the primary or adjunctive treatment with medical use of  
29 cannabis for the condition.

30 2. The certification shall include: (a) the name, date of birth and  
31 address of the patient; (b) a statement that the patient has a condition  
32 and the patient is under the practitioner's care for the condition; (c)  
33 a statement attesting that all requirements of subdivision one of this  
34 section have been satisfied; (d) the date; and (e) the name, address,  
35 telephone number, and the signature of the certifying practitioner. The  
36 executive director may require by regulation that the certification  
37 shall be on a form provided by the office. The practitioner may state in  
38 the certification that, in the practitioner's professional opinion, the  
39 patient would benefit from medical cannabis only until a specified date.  
40 The practitioner may state in the certification that, in the practition-  
41 er's professional opinion, the patient is terminally ill and that the  
42 certification shall not expire until the patient dies.

43 3. In making a certification, the practitioner may consider the form  
44 of medical cannabis the patient should consume, including the method of  
45 consumption and any particular strain, variety, and quantity or percent-  
46 age of cannabis or particular active ingredient, and appropriate dosage.  
47 The practitioner may state in the certification any recommendation or  
48 limitation the practitioner makes, in his or her professional opinion,  
49 concerning the appropriate form or forms of medical cannabis and dosage.

50 4. Every practitioner shall consult the prescription monitoring  
51 program registry prior to making or issuing a certification, for the  
52 purpose of reviewing a patient's controlled substance history. For  
53 purposes of this section, a practitioner may authorize a designee to  
54 consult the prescription monitoring program registry on his or her

1 behalf, provided that such designation is in accordance with section  
2 thirty-three hundred forty-three-a of the public health law.

3 5. The practitioner shall give the certification to the certified  
4 patient, and place a copy in the patient's health care record.

5 6. No practitioner shall issue a certification under this section for  
6 themselves.

7 7. A registry identification card based on a certification shall  
8 expire one year after the date the certification is signed by the prac-  
9 titioner.

10 8. (a) If the practitioner states in the certification that, in the  
11 practitioner's professional opinion, the patient would benefit from  
12 medical cannabis only until a specified earlier date, then the registry  
13 identification card shall expire on that date; (b) if the practitioner  
14 states in the certification that in the practitioner's professional  
15 opinion the patient is terminally ill and that the certification shall  
16 not expire until the patient dies, then the registry identification card  
17 shall state that the patient is terminally ill and that the registration  
18 card shall not expire until the patient dies; (c) if the practitioner  
19 re-issues the certification to terminate the certification on an earlier  
20 date, then the registry identification card shall expire on that date  
21 and shall be promptly destroyed by the certified patient; (d) if the  
22 certification so provides, the registry identification card shall state  
23 any recommendation or limitation by the practitioner as to the form or  
24 forms of medical cannabis or dosage for the certified patient; and (e)  
25 the executive director shall make regulations to implement this subdivi-  
26 sion.

27 § 31. Lawful medical use. The possession, acquisition, use, delivery,  
28 transfer, transportation, or administration of medical cannabis by a  
29 certified patient, designated caregiver or the employees of a designated  
30 caregiver facility, for certified medical use, shall be lawful under  
31 this article provided that:

32 1. the cannabis that may be possessed by a certified patient shall not  
33 exceed a sixty-day supply of the dosage if determined by the practition-  
34 er, consistent with any guidance and regulations issued by the executive  
35 director, provided that during the last seven days of any sixty-day  
36 period, the certified patient may also possess up to such amount for the  
37 next sixty-day period;

38 2. the cannabis that may be possessed by designated caregivers does  
39 not exceed the quantities referred to in subdivision one of this section  
40 for each certified patient for whom the caregiver possesses a valid  
41 registry identification card, up to five certified patients;

42 3. the cannabis that may be possessed by designated caregiver facili-  
43 ties does not exceed the quantities referred to in subdivision one of  
44 this section for each certified patient under the care or treatment of  
45 the facility;

46 4. the form or forms of medical cannabis that may be possessed by the  
47 certified patient, designated caregiver or designated caregiver facility  
48 pursuant to a certification shall be in compliance with any recommenda-  
49 tion or limitation by the practitioner as to the form or forms of  
50 medical cannabis or dosage for the certified patient in the certif-  
51 ication;

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

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

4 § 32. Registry identification cards. 1. Upon approval of the certif-  
5 ication, the office shall issue registry identification cards for certi-  
6 fied patients and designated caregivers. A registry identification card  
7 shall expire as provided in this article or as otherwise provided in  
8 this section. The office shall begin issuing registry identification  
9 cards as soon as practicable after the certifications required by this  
10 chapter are granted. The office may specify a form for a registry appli-  
11 cation, in which case the office shall provide the form on request,  
12 reproductions of the form may be used, and the form shall be available  
13 for downloading from the office's website.

14 2. To obtain, amend or renew a registry identification card, a certi-  
15 fied patient or designated caregiver shall file a registry application  
16 with the office, unless otherwise exempted by the executive director in  
17 regulation. The registry application or renewal application shall  
18 include:

19 (a) in the case of a certified patient:

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

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

23 (iii) the date of the certification;

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

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

29 (vi) the name, address, and telephone number of the certifying practi-  
30 tioner;

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

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

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

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

42 (b) in the case of a designated caregiver:

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

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

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

48 (c) a statement that a false statement made in the application is  
49 punishable under section 210.45 of the penal law;

50 (d) the date of the application and the signature of the certified  
51 patient or designated caregiver, as the case may be;

52 (e) any other requirements determined by the executive director.

53 3. Where a certified patient is under the age of eighteen or otherwise  
54 incapable of consent:

1 (a) The application for a registry identification card shall be made  
2 by the person responsible for making health care decisions for the  
3 patient.

4 (b) The designated caregiver shall be: (i) a parent or legal guardian  
5 of the certified patient; (ii) a person designated by a parent or legal  
6 guardian; (iii) an employee of a designated caregiver facility, includ-  
7 ing a cannabis research license holder; or (iv) an appropriate person  
8 approved by the office upon a sufficient showing that no parent or legal  
9 guardian is appropriate or available.

10 4. No person may be a designated caregiver if the person is under  
11 twenty-one years of age unless a sufficient showing is made to the  
12 office that the person should be permitted to serve as a designated  
13 caregiver. The requirements for such a showing shall be determined by  
14 the executive director.

15 5. No person may be a designated caregiver for more than five certi-  
16 fied patients at one time; provided, however, that this limitation shall  
17 not apply to a designated caregiver facility, or cannabis research  
18 license holder as defined by this chapter.

19 6. If a certified patient wishes to change or terminate his or her  
20 designated caregiver, for whatever reason, the certified patient shall  
21 notify the office as soon as practicable. The office shall issue a  
22 notification to the designated caregiver that their registration card is  
23 invalid and must be promptly destroyed. The newly designated caregiver  
24 must comply with all requirements set forth in this section.

25 7. If the certification so provides, the registry identification card  
26 shall contain any recommendation or limitation by the practitioner as to  
27 the form or forms of medical cannabis or dosage for the certified  
28 patient.

29 8. The office shall issue separate registry identification cards for  
30 certified patients and designated caregivers as soon as reasonably prac-  
31 ticable after receiving a complete application under this section,  
32 unless it determines that the application is incomplete or factually  
33 inaccurate, in which case it shall promptly notify the applicant.

34 9. If the application of a certified patient designates an individual  
35 as a designated caregiver who is not authorized to be a designated care-  
36 giver, that portion of the application shall be denied by the office but  
37 that shall not affect the approval of the balance of the application.

38 10. A registry identification card shall:

39 (a) contain the name of the certified patient or the designated care-  
40 giver as the case may be;

41 (b) contain the date of issuance and expiration date of the registry  
42 identification card;

43 (c) contain a registry identification number for the certified patient  
44 or designated caregiver, as the case may be and a registry identifica-  
45 tion number;

46 (d) contain a photograph of the individual to whom the registry iden-  
47 tification card is being issued, which shall be obtained by the office  
48 in a manner specified by the executive director in regulations;  
49 provided, however, that if the office requires certified patients to  
50 submit photographs for this purpose, there shall be a reasonable accom-  
51 modation of certified patients who are confined to their homes due to  
52 their medical conditions and may therefore have difficulty procuring  
53 photographs;

54 (e) be a secure document as determined by the office;

1 (f) plainly state any recommendation or limitation by the practitioner  
2 as to the form or forms of medical cannabis or dosage for the certified  
3 patient; and

4 (g) any other requirements determined by the executive director.

5 11. A certified patient or designated caregiver who has been issued a  
6 registry identification card shall notify the office of any change in  
7 his or her name or address or, with respect to the patient, if he or she  
8 ceases to have the condition noted on the certification within ten days  
9 of such change. The certified patient's or designated caregiver's regis-  
10 try identification card shall be deemed invalid and shall be promptly  
11 destroyed.

12 12. If a certified patient or designated caregiver loses his or her  
13 registry identification card, he or she shall notify the office within  
14 ten days of losing the card. The office shall issue a new registry iden-  
15 tification card as soon as practicable, which may contain a new registry  
16 identification number, to the certified patient or designated caregiver,  
17 as the case may be.

18 13. The office shall maintain a confidential list of the persons to  
19 whom it has issued registry identification cards. Individual identifying  
20 information obtained by the office under this article shall be confiden-  
21 tial and exempt from disclosure under article six of the public officers  
22 law. Notwithstanding this subdivision, the office may notify any appro-  
23 priate law enforcement agency of information relating to any violation  
24 or suspected violation of this article.

25 14. The office shall verify to law enforcement personnel in an appro-  
26 priate case whether a registry identification card is valid.

27 15. If a certified patient or designated caregiver willfully violates  
28 any provision of this article as determined by the executive director,  
29 his or her certification and registry identification card may be  
30 suspended or revoked. This is in addition to any other penalty that may  
31 apply.

32 § 33. Registration as a designated caregiver facility. 1. To obtain,  
33 amend or renew a registration as a designated caregiver facility, the  
34 facility shall file a registry application with the office. The registry  
35 application or renewal application shall include:

36 (a) the facility's full name and address;

37 (b) operating certificate or license number where appropriate;

38 (c) printed name, title, and signature of an authorized facility  
39 representative;

40 (d) a statement that the facility agrees to secure and ensure proper  
41 handling of all medical cannabis products;

42 (e) an acknowledgement that a false statement in the application is  
43 punishable under section 210.45 of the penal law; and

44 (f) any other information that may be required by the executive direc-  
45 tor.

46 2. Prior to issuing or renewing a designated caregiver facility regis-  
47 tration, the office may verify the information submitted by the appli-  
48 cant. The applicant shall provide, at the office's request, such infor-  
49 mation and documentation, including any consents or authorizations that  
50 may be necessary for the office to verify the information.

51 3. The office shall approve, deny or determine incomplete or inaccu-  
52 rate an initial or renewal application within thirty days of receipt of  
53 the application. If the application is approved within the thirty-day  
54 period, the office shall issue a registration as soon as is reasonably  
55 practicable.

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

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

9 § 34. Registered organizations. 1. A registered organization shall be  
10 a for-profit business entity or not-for-profit corporation organized for  
11 the purpose of acquiring, possessing, manufacturing, selling, deliver-  
12 ing, transporting, distributing or dispensing cannabis for certified  
13 medical use.

14 2. The acquiring, possession, manufacture, sale, delivery, transport-  
15 ing, distributing or dispensing of medical cannabis by a registered  
16 organization under this article in accordance with its registration  
17 under this article or a renewal thereof shall be lawful under this chap-  
18 ter.

19 3. Each registered organization shall contract with an independent  
20 laboratory permitted by the office to test the medical cannabis produced  
21 by the registered organization. The executive director shall approve the  
22 laboratory used by the registered organization and may require that the  
23 registered organization use a particular testing laboratory. The execu-  
24 tive director is authorized to issue regulations requiring the laborato-  
25 ry to perform certain tests and services.

26 4. (a) A registered organization may lawfully, in good faith, sell,  
27 deliver, distribute or dispense medical cannabis to a certified patient  
28 or designated caregiver upon presentation to the registered organization  
29 of a valid registry identification card for that certified patient or  
30 designated caregiver. When presented with the registry identification  
31 card, the registered organization shall provide to the certified patient  
32 or designated caregiver a receipt, which shall state: the name, address,  
33 and registry identification number of the registered organization; the  
34 name and registry identification number of the certified patient and the  
35 designated caregiver, if any; the date the cannabis was sold; any recom-  
36 mendation or limitation by the practitioner as to the form or forms of  
37 medical cannabis or dosage for the certified patient; and the form and  
38 the quantity of medical cannabis sold. The registered organization shall  
39 retain a copy of the registry identification card and the receipt for  
40 six years.

41 (b) The proprietor of a registered organization shall file or cause to  
42 be filed any receipt and certification information with the office by  
43 electronic means on a real-time basis as the executive director shall  
44 require by regulation. When filing receipt and certification information  
45 electronically pursuant to this paragraph, the proprietor of the regis-  
46 tered organization shall dispose of any electronically recorded  
47 prescription information in such manner as the executive director shall  
48 by regulation require.

49 5. (a) No registered organization may sell, deliver, distribute or  
50 dispense to any certified patient or designated caregiver a quantity of  
51 medical cannabis larger than that individual would be allowed to possess  
52 under this chapter.

53 (b) When dispensing medical cannabis to a certified patient or desig-  
54 nated caregiver, the registered organization: (i) shall not dispense an  
55 amount greater than a sixty-day supply to a certified patient until the  
56 certified patient has exhausted all but a seven day supply provided



1 pursuant to a previously issued certification; and (ii) shall verify the  
2 information in subparagraph (i) of this paragraph by consulting the  
3 prescription monitoring program registry under this article.

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

8 6. When a registered organization sells, delivers, distributes or  
9 dispenses medical cannabis to a certified patient or designated caregiv-  
10 er, it shall provide to that individual a safety insert, which will be  
11 developed by the registered organization and approved by the executive  
12 director and include, but not be limited to, information on:

- 13 (a) methods for administering medical cannabis,  
14 (b) any potential dangers stemming from the use of medical cannabis,  
15 (c) how to recognize what may be problematic usage of medical cannabis  
16 and obtain appropriate services or treatment for problematic usage, and  
17 (d) other information as determined by the executive director.

18 7. Registered organizations shall not be managed by or employ anyone  
19 who has been convicted within three years of the date of hire, of any  
20 felony related to the functions or duties of operating a business,  
21 except that if the executive director determines that the manager or  
22 employee is otherwise suitable to be hired, and hiring the manager or  
23 employee would not compromise public safety, the executive director  
24 shall conduct a thorough review of the nature of the crime, conviction,  
25 circumstances, and evidence of rehabilitation of the manager or employ-  
26 ee, and shall evaluate the suitability of the manager or employee based  
27 on the evidence found through the review. In determining which offenses  
28 are substantially related to the functions or duties of operating a  
29 business, the executive director shall include, but not be limited to,  
30 the following:

- 31 (a) a felony conviction involving fraud, money laundering, forgery and  
32 other unlawful conduct related to owning and operating a business; and  
33 (b) a felony conviction for hiring, employing or using a minor in  
34 transporting, carrying, selling, giving away, preparing for sale, or  
35 peddling, any controlled substance, or selling, offering to sell,  
36 furnishing, offering to furnish, administering, or giving any controlled  
37 substance to a minor.

38 A felony conviction for the sale or possession of drugs, narcotics, or  
39 controlled substances is not substantially related. This subdivision  
40 shall only apply to managers or employees who come into contact with or  
41 handle medical cannabis.

42 8. Manufacturing of medical cannabis by a registered organization  
43 shall only be done in an indoor, enclosed, secure facility located in  
44 New York state, which may include a greenhouse. The executive director  
45 shall promulgate regulations establishing requirements for such facili-  
46 ties.

47 9. Dispensing of medical cannabis by a registered organization shall  
48 only be done in an indoor, enclosed, secure facility located in New York  
49 state, which may include a greenhouse. The executive director shall  
50 promulgate regulations establishing requirements for such facilities.

51 10. A registered organization may contract with a person or entity to  
52 provide facilities, equipment or services that are ancillary to the  
53 registered organization's functions or activities under this article  
54 including, but not limited to, shipping, maintenance, construction,  
55 repair, and security, provided that the person or entity shall not  
56 perform any function or activity directly involving the planting, grow-

1 ing, tending, harvesting, processing, or packaging of cannabis plants,  
2 medical cannabis, or medical cannabis products being produced by the  
3 registered organization; or any other function directly involving manu-  
4 facturing or retailing of medical cannabis. All laws and regulations  
5 applicable to such facilities, equipment, or services shall apply to the  
6 contract. The registered organization and other parties to the contract  
7 shall each be responsible for compliance with such laws and regulations  
8 under the contract. The executive director may make regulations consist-  
9 ent with this article relating to contracts and parties to contracts  
10 under this subdivision.

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

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

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

33 14. The executive director is authorized to make rules and regulations  
34 restricting the advertising and marketing of medical cannabis.

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

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

42 (ii) that the applicant:

43 (A) is of good moral character;

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

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

51 (D) is able to comply with all applicable state laws and regulations  
52 relating to the activities in which it intends to engage under the  
53 registration;

54 (iii) that the applicant has entered into a labor peace agreement with  
55 a bona fide labor organization that is actively engaged in representing  
56 or 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 certification;

3 (iv) the applicant's status as a for-profit business entity or not-  
4 for-profit corporation; and

5 (v) the application shall include the name, residence address and  
6 title of each of the officers and directors and the name and residence  
7 address of any person or entity that is a member of the applicant. Each  
8 such person, if an individual, or lawful representative if a legal enti-  
9 ty, shall submit an affidavit with the application setting forth:

10 (A) any position of management or ownership during the preceding ten  
11 years of a twenty per centum or greater interest in any other business,  
12 located in or outside this state, manufacturing or distributing drugs;

13 (B) whether such person or any such business has been convicted of a  
14 felony or had a registration or license suspended or revoked in any  
15 administrative or judicial proceeding; and

16 (C) such other information as the executive director may reasonably  
17 require.

18 2. The applicant shall be under a continuing duty to report to the  
19 office any change in facts or circumstances reflected in the application  
20 or any newly discovered or occurring fact or circumstance which is  
21 required to be included in the application.

22 3. (a) The executive director shall grant a registration or amendment  
23 to a registration under this section if he or she is satisfied that:

24 (i) the applicant will be able to maintain effective control against  
25 diversion of cannabis;

26 (ii) the applicant will be able to comply with all applicable state  
27 laws;

28 (iii) the applicant and its officers are ready, willing and able to  
29 properly carry on the manufacturing or distributing activity for which a  
30 registration is sought;

31 (iv) the applicant possesses or has the right to use sufficient land,  
32 buildings and equipment to properly carry on the activity described in  
33 the application;

34 (v) it is in the public interest that such registration be granted,  
35 including but not limited to:

36 (A) whether the number of registered organizations in an area will be  
37 adequate or excessive to reasonably serve the area;

38 (B) whether the registered organization is a minority and/or woman  
39 owned business enterprise or a service-disabled veteran-owned business;

40 (C) whether the registered organization provides education and  
41 outreach to practitioners;

42 (D) whether the registered organization promotes the research and  
43 development of medical cannabis and patient outreach; and

44 (E) the affordability of medical cannabis products offered by the  
45 registered organization;

46 (vi) the applicant and its managing officers are of good moral charac-  
47 ter;

48 (vii) the applicant has entered into a labor peace agreement with a  
49 bona fide labor organization that is actively engaged in representing or  
50 attempting to represent the applicant's employees; and the maintenance  
51 of such a labor peace agreement shall be an ongoing material condition  
52 of registration; and

53 (viii) the applicant satisfies any other conditions as determined by  
54 the executive director.

55 (b) If the executive director is not satisfied that the applicant  
56 should be issued a registration, he or she shall notify the applicant in

1 writing of those factors upon which the denial is based. Within thirty  
2 days of the receipt of such notification, the applicant may submit a  
3 written request to the executive director to appeal the decision.

4 (c) The fee for a registration under this section shall be an amount  
5 determined by the office in regulations; provided, however, if the  
6 registration is issued for a period greater than two years the fee shall  
7 be increased, pro rata, for each additional month of validity.

8 (d) Registrations issued under this section shall be effective only  
9 for the registered organization and shall specify:

10 (i) the name and address of the registered organization;

11 (ii) which activities of a registered organization are permitted by  
12 the registration;

13 (iii) the land, buildings and facilities that may be used for the  
14 permitted activities of the registered organization; and

15 (iv) such other information as the executive director shall reasonably  
16 provide to assure compliance with this article.

17 (e) Upon application of a registered organization, a registration may  
18 be amended to allow the registered organization to relocate within the  
19 state or to add or delete permitted registered organization activities  
20 or facilities. The fee for such amendment shall be two hundred fifty  
21 dollars.

22 4. A registration issued under this section shall be valid for two  
23 years from the date of issue, except that in order to facilitate the  
24 renewals of such registrations, the executive director may upon the  
25 initial application for a registration, issue some registrations which  
26 may remain valid for a period of time greater than two years but not  
27 exceeding an additional eleven months.

28 5. (a) An application for the renewal of any registration issued  
29 under this section shall be filed with the office not more than six  
30 months nor less than four months prior to the expiration thereof. A  
31 late-filed application for the renewal of a registration may, in the  
32 discretion of the executive director, be treated as an application for  
33 an initial license.

34 (b) The application for renewal shall include such information  
35 prepared in the manner and detail as the executive director may require,  
36 including but not limited to:

37 (i) any material change in the circumstances or factors listed in  
38 subdivision one of this section; and

39 (ii) every known charge or investigation, pending or concluded during  
40 the period of the registration, by any governmental or administrative  
41 agency with respect to:

42 (A) each incident or alleged incident involving the theft, loss, or  
43 possible diversion of medical cannabis manufactured or distributed by  
44 the applicant; and

45 (B) compliance by the applicant with the laws of the state with  
46 respect to any substance listed in section thirty-three hundred six of  
47 the public health law.

48 (c) An applicant for renewal shall be under a continuing duty to  
49 report to the office any change in facts or circumstances reflected in  
50 the application or any newly discovered or occurring fact or circum-  
51 stance which is required to be included in the application.

52 (d) If the executive director is not satisfied that the registered  
53 organization applicant is entitled to a renewal of the registration, he  
54 or she shall within a reasonably practicable time as determined by the  
55 executive director, serve upon the registered organization or its attor-  
56 ney of record in person or by registered or certified mail an order

1 directing the registered organization to show cause why its application  
2 for renewal should not be denied. The order shall specify in detail the  
3 respects in which the applicant has not satisfied the executive director  
4 that the registration should be renewed.

5 6. (a) The executive director shall renew a registration unless he or  
6 she determines and finds that:

7 (i) the applicant is unlikely to maintain or be able to maintain  
8 effective control against diversion;

9 (ii) the applicant is unlikely to comply with all state laws applica-  
10 ble to the activities in which it may engage under the registration;

11 (iii) it is not in the public interest to renew the registration  
12 because the number of registered organizations in an area is excessive  
13 to reasonably serve the area; or

14 (iv) the applicant has either violated or terminated its labor peace  
15 agreement.

16 (b) For purposes of this section, proof that a registered organiza-  
17 tion, during the period of its registration, has failed to maintain  
18 effective control against diversion, violates any provision of this  
19 article, or has knowingly or negligently failed to comply with applica-  
20 ble state laws relating to the activities in which it engages under the  
21 registration, shall constitute grounds for suspension, termination or  
22 limitation of the registered organization's registration or as deter-  
23 mined by the executive director. The registered organization shall also  
24 be under a continuing duty to report to the authority any material  
25 change or fact or circumstance to the information provided in the regis-  
26 tered organization's application.

27 7. The office may suspend or terminate the registration of a regis-  
28 tered organization, on grounds and using procedures under this article  
29 relating to a license, to the extent consistent with this article. The  
30 authority shall suspend or terminate the registration in the event that  
31 a registered organization violates or terminates the applicable labor  
32 peace agreement. Conduct in compliance with this article which may  
33 violate conflicting federal law, shall not be grounds to suspend or  
34 terminate a registration.

35 8. A registered organization that manufactures medical cannabis may  
36 have no more than four dispensing sites wholly owned and operated by  
37 such registered organization. The executive director shall ensure that  
38 such registered organizations and dispensing sites are geographically  
39 distributed across the state and that their ownership reflects the demo-  
40 graphics of the state. The executive director shall register additional  
41 registered organizations reflecting the demographics of the state.

42 § 36. Reports of registered organizations. 1. The executive director  
43 shall, by regulation, require each registered organization to file  
44 reports by the registered organization during a particular period. The  
45 executive director shall determine the information to be reported and  
46 the forms, time, and manner of the reporting.

47 2. The executive director shall, by regulation, require each regis-  
48 tered organization to adopt and maintain security, tracking, record  
49 keeping, record retention and surveillance systems, relating to all  
50 medical cannabis at every stage of acquiring, possession, manufacture,  
51 sale, delivery, transporting, distributing, or dispensing by the regis-  
52 tered organization, subject to regulations of the executive director.

53 § 37. Evaluation; research programs; report by office. 1. The execu-  
54 tive director may provide for the analysis and evaluation of the opera-  
55 tion of this article. The executive director may enter into agreements  
56 with one or more persons, not-for-profit corporations or other organiza-

1 tions, for the performance of an evaluation of the implementation and  
2 effectiveness of this article.

3 2. The office may develop, seek any necessary federal approval for,  
4 and carry out research programs relating to medical use of cannabis.  
5 Participation in any such research program shall be voluntary on the  
6 part of practitioners, patients, and designated caregivers.

7 3. The office shall report every two years, beginning two years after  
8 the effective date of this chapter, to the governor and the legislature  
9 on the medical use of cannabis under this article and make appropriate  
10 recommendations.

11 § 38. Cannabis research license. 1. The executive director shall  
12 establish a cannabis research license that permits a licensee to  
13 produce, process, purchase and possess cannabis for the following limit-  
14 ed research purposes:

15 (a) to test chemical potency and composition levels;  
16 (b) to conduct clinical investigations of cannabis-derived drug  
17 products;

18 (c) to conduct research on the efficacy and safety of administering  
19 cannabis as part of medical treatment; and

20 (d) to conduct genomic or agricultural research.

21 2. As part of the application process for a cannabis research license,  
22 an applicant must submit to the office a description of the research  
23 that is intended to be conducted as well as the amount of cannabis to be  
24 grown or purchased. The office shall review an applicant's research  
25 project and determine whether it meets the requirements of subdivision  
26 one of this section. In addition, the office shall assess the applica-  
27 tion based on the following criteria:

28 (a) project quality, study design, value, and impact;

29 (b) whether the applicant has the appropriate personnel, expertise,  
30 facilities and infrastructure, funding, and human, animal, or other  
31 approvals in place to successfully conduct the project; and

32 (c) whether the amount of cannabis to be grown or purchased by the  
33 applicant is consistent with the project's scope and goals. If the  
34 office determines that the research project does not meet the require-  
35 ments of subdivision one of this section, the application must be  
36 denied.

37 3. A cannabis research licensee may only sell cannabis grown or within  
38 its operation to other cannabis research licensees. The office may  
39 revoke a cannabis research license for violations of this subsection.

40 4. A cannabis research licensee may contract with the higher education  
41 institutions to perform research in conjunction with the university. All  
42 research projects, entered into under this section must be approved by  
43 the office and meet the requirements of subdivision one of this section.

44 5. In establishing a cannabis research license, the executive director  
45 may adopt regulations on the following:

46 (a) application requirements;

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

49 (c) conditions for license revocation;

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

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

54 (f) licensee reporting requirements;

1 (g) conditions under which cannabis grown by licensed cannabis produc-  
2 ers and other product types from licensed cannabis processors may be  
3 donated to cannabis research licensees; and

4 (h) any additional requirements deemed necessary by the office.

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

9 7. The application fee for a cannabis research license shall be deter-  
10 mined by the executive director on an annual basis.

11 8. Each cannabis research licensee shall issue an annual report to the  
12 office. The office shall review such report and make a determination as  
13 to whether the research project continues to meet the research quali-  
14 fications under this section.

15 § 39. Registered organizations and adult-use cannabis. 1. The execu-  
16 tive director shall have the authority to grant some or all of the  
17 registered organizations registered with the department of health and  
18 currently registered and in good standing with the office, the ability  
19 to be licensed to cultivate, process, or sell adult-use cannabis and  
20 cannabis products, pursuant to any fees, rules or conditions prescribed  
21 by the executive director in regulation and subject to the restrictions  
22 on licensed adult-use cultivators and processors on having any ownership  
23 interest in a licensed adult-use retail dispensary pursuant to this  
24 chapter.

25 2. Prior to granting the licenses provided by subdivision one of this  
26 section, the office shall assess a registered organization registered  
27 prior to the enactment of this chapter with a one-time special licensing  
28 fee so that they may become authorized to bypass the restrictions on  
29 having any ownership interest in a licensed adult-use retail dispensary,  
30 provided that the fees generated from such assessment shall be used to  
31 administer incubators and low or zero-interest loans and other assist-  
32 ance to qualified social equity applicants. The timing and manner in  
33 which registered organizations may be granted such authority shall be  
34 determined by the executive director in regulation.

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

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

40 § 41. Protections for the medical use of cannabis. 1. Certified  
41 patients, designated caregivers, designated caregiver facilities, prac-  
42 titioners, registered organizations and the employees of registered  
43 organizations, and cannabis researchers shall not be subject to arrest,  
44 prosecution, or penalty in any manner, or denied any right or privilege,  
45 including but not limited to civil penalty or disciplinary action by a  
46 business or occupational or professional licensing board or bureau,  
47 solely for the certified medical use or manufacture of cannabis, or for  
48 any other action or conduct in accordance with this article.

49 2. Being a certified patient shall be deemed to be having a "disabili-  
50 ty" under article fifteen of the executive law, section forty-c of the  
51 civil rights law, sections 240.00, 485.00, and 485.05 of the penal law,  
52 and section 200.50 of the criminal procedure law. This subdivision shall  
53 not bar the enforcement of a policy prohibiting an employee from  
54 performing his or her employment duties while impaired by a controlled  
55 substance. This subdivision shall not require any person or entity to do

1 any act that would put the person or entity in direct violation of  
2 federal law or cause it to lose a federal contract or funding.

3 3. The fact that a person is a certified patient and/or acting in  
4 accordance with this article, shall not be a consideration in a proceed-  
5 ing pursuant to applicable sections of the domestic relations law, the  
6 social services law and the family court act.

7 4. (a) Certification applications, certification forms, any certified  
8 patient information contained within a database, and copies of registry  
9 identification cards shall be deemed exempt from public disclosure under  
10 sections eighty-seven and eighty-nine of the public officers law.

11 (b) The name, contact information, and other information relating to  
12 practitioners registered with the office under this article shall be  
13 public information and shall be maintained by the executive director on  
14 the office's website accessible to the public in searchable form. Howev-  
15 er, if a practitioner notifies the office in writing that he or she does  
16 not want his or her name and other information disclosed, that practi-  
17 tioner's name and other information shall thereafter not be public  
18 information or maintained on the office's website, unless the practi-  
19 tioner cancels the request.

20 § 42. Regulations. The executive director shall promulgate regu-  
21 lations in consultation with the cannabis advisory board to implement  
22 this article.

23 § 43. Suspend; terminate. Based upon the recommendation of the execu-  
24 tive director and/or the superintendent of state police that there is a  
25 risk to the public health or safety, the governor may immediately termi-  
26 nate all licenses issued to registered organizations.

27 § 44. Pricing. Registered organizations shall submit documentation to  
28 the executive director of any change in pricing per dose for any medical  
29 cannabis product within fifteen days of such change. Prior approval by  
30 the executive director shall not be required for any such change;  
31 provided however that the executive director is authorized to modify the  
32 price per dose for any medical cannabis product if necessary to maintain  
33 public access to appropriate medication.

#### 34 ARTICLE 4

#### 35 ADULT-USE CANNABIS

36 Section 60. Licenses issued.

37 61. License application.

38 62. Information to be requested in applications for licenses.

39 63. Fees.

40 64. Selection criteria.

41 65. Limitations of licensure; duration.

42 66. License renewal.

43 67. Amendments; changes in ownership and organizational struc-  
44 ture.

45 68. Adult-use cultivator license.

46 69. Adult-use processor license.

47 70. Adult-use cooperative license.

48 71. Adult-use distributor license.

49 72. Adult-use retail dispensary license.

50 73. Micro business license.

51 74. Notification to municipalities of adult-use retail dispen-  
52 sary.

53 75. On-site consumption license; provisions governing on-site  
54 consumption licenses.

55 76. Record keeping and tracking.



- 1 77. Inspections and ongoing requirements.
- 2 78. Adult-use cultivators, processors or distributors not to be
- 3 interested in retail dispensaries.
- 4 79. Packaging and labeling of adult-use cannabis products.
- 5 80. Laboratory testing.
- 6 81. Provisions governing the cultivation and processing of
- 7 adult-use cannabis.
- 8 82. Provisions governing the distribution of adult-use cannabis.
- 9 83. Provisions governing adult-use cannabis retail dispensaries.
- 10 84. Adult-use cannabis advertising.
- 11 85. Social and economic equity, minority, women-owned busi-
- 12 nesses, and disadvantaged farmers; incubator program.
- 13 86. Regulations.

14 § 60. Licenses issued. The following kinds of licenses shall be  
15 issued by the executive director for the cultivation, processing,  
16 distribution and sale of cannabis, cannabis producers, and concentrated  
17 cannabis to cannabis consumers:

- 18 1. Adult-use cultivator license;
- 19 2. Adult-use processor license;
- 20 3. Adult-use cooperative license;
- 21 4. Adult-use distributor license;
- 22 5. Adult-use retail dispensary license;
- 23 6. On-site consumption license;
- 24 7. Microbusiness license;
- 25 8. Delivery license;
- 26 9. Nursery license; and
- 27 10. Any other type of license as prescribed by the executive director  
28 in regulation.

29 § 61. License Application. 1. Any person may apply to the office for  
30 a license to cultivate, process, distribute or dispense cannabis within  
31 this state for sale. Such application shall be in writing and verified  
32 and shall contain such information as the office shall require. Such  
33 application shall be accompanied by a check or draft for the amount  
34 required by this article for such license. If the office shall approve  
35 the application, it shall issue a license in such form as shall be  
36 determined by its rules. Such license shall contain a description of the  
37 licensed premises and in form and in substance shall be a license to the  
38 person therein specifically designated to cultivate, process, distribute  
39 or dispense cannabis in the premises therein specifically licensed.

40 2. Except as otherwise provided in this article, a separate license  
41 shall be required for each facility at which cultivation, processing,  
42 distribution or retail dispensing is conducted.

43 3. An applicant shall not be denied a license under this article based  
44 solely on a conviction for a violation of article two hundred twenty or  
45 section 240.36 of the penal law, prior to the date article two hundred  
46 twenty-two of the penal law took effect, or a conviction for a violation  
47 of article two hundred twenty-two of the penal law after the effective  
48 date of this chapter.

49 § 62. Information to be requested in applications for licenses. 1.  
50 The office shall have the authority to prescribe the manner and form in  
51 which an application must be submitted to the office for licensure under  
52 this article.

53 2. The executive director is authorized to adopt regulations, includ-  
54 ing by emergency rule, establishing information which must be included  
55 on an application for licensure under this article. Such information may  
56 include, but is not limited to: information about the applicant's iden-

1 tity, including racial and ethnic diversity; ownership and investment  
2 information, including the corporate structure; evidence of good moral  
3 character, including the submission of fingerprints by the applicant to  
4 the division of criminal justice services; information about the prem-  
5 ises to be licensed; financial statements; and any other information  
6 prescribed by regulation.

7 3. All license applications shall be signed by the applicant (if an  
8 individual), by a managing member (if a limited liability company), by  
9 an officer (if a corporation), or by all partners (if a partnership).  
10 Each person signing such application shall verify it or affirm it as  
11 true under the penalties of perjury.

12 4. All license or permit applications shall be accompanied by a check,  
13 draft or other forms of payment as the office may require or authorize  
14 in the amount required by this article for such license or permit.

15 5. If there be any change, after the filing of the application or the  
16 granting of a license, in any of the facts required to be set forth in  
17 such application, a supplemental statement giving notice of such change,  
18 cost and source of money involved in the change, duly verified, shall be  
19 filed with the office within ten days after such change. Failure to do  
20 so shall, if willful and deliberate, be cause for denial or revocation  
21 of the license.

22 6. In giving any notice, or taking any action in reference to a regis-  
23 tered organization or licensee of a licensed premises, the office may  
24 rely upon the information furnished in such application and in any  
25 supplemental statement connected therewith, and such information may be  
26 presumed to be correct, and shall be binding upon a registered organiza-  
27 tions, licensee or licensed premises as if correct. All information  
28 required to be furnished in such application or supplemental statements  
29 shall be deemed material in any prosecution for perjury, any proceeding  
30 to revoke, cancel or suspend any license, and in the office's determi-  
31 nation to approve or deny the license.

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

38 2. The office shall have the authority to charge licensees a biennial  
39 license fee. Such fee shall be based on the amount of cannabis to be  
40 cultivated, processed, distributed and/or dispensed by the licensee or  
41 the gross annual receipts of the licensee for the previous license peri-  
42 od, and any other factors deemed reasonable and appropriate by the  
43 office.

44 3. The office shall have the authority to waive or reduce fees for  
45 social and economic equity applicants.

46 § 64. Selection criteria. 1. The executive director shall develop  
47 regulations for determining whether or not an applicant should be grant-  
48 ed the privilege of an adult-use cannabis license, based on, but not  
49 limited to, the following criteria:

50 (a) the applicant will be able to maintain effective control against  
51 the illegal diversion of cannabis;

52 (b) the applicant will be able to comply with all applicable state  
53 laws and regulations;

54 (c) the applicant and its officers are ready, willing, and able to  
55 properly carry on the activities for which a license is sought;

1 (d) the applicant possesses or has the right to use sufficient land,  
2 buildings, and equipment to properly carry on the activity described in  
3 the application;

4 (e) the applicant qualifies as a social equity applicant or sets out a  
5 plan for benefiting communities and people disproportionately impacted by  
6 cannabis law enforcement;

7 (f) it is in the public interest that such license be granted, taking  
8 into consideration, but not limited to, the following criteria:

9 (i) that it is a privilege, and not a right, to cultivate, process,  
10 distribute, and sell cannabis;

11 (ii) the number, classes, and character of other licenses in proximity  
12 to the location and in the particular municipality or subdivision there-  
13 of;

14 (iii) evidence that all necessary licenses and permits have been  
15 obtained from the state and all other governing bodies;

16 (iv) effect of the grant of the license on pedestrian or vehicular  
17 traffic, and parking, in proximity to the location;

18 (v) the existing noise level at the location and any increase in noise  
19 level that would be generated by the proposed premises;

20 (vi) the ability to mitigate adverse environmental impacts, including  
21 but not limited to energy usage and carbon emissions;

22 (vii) the effect on the production and availability of cannabis and  
23 cannabis products; and

24 (viii) any other factors specified by law or regulation that are rele-  
25 vant to determine that granting a license would promote public conven-  
26 ience and advantage and the public interest of the community;

27 (g) the applicant and its managing officers are of good moral charac-  
28 ter and do not have an ownership or controlling interest in more  
29 licenses or permits than allowed by this chapter;

30 (h) the applicant has entered into a labor peace agreement with a  
31 bona-fide labor organization that is actively engaged in representing or  
32 attempting to represent the applicant's employees, and the maintenance  
33 of such a labor peace agreement shall be an ongoing material condition  
34 of licensure. In evaluating applications from entities with twenty-five  
35 or more employees, the office shall give priority to applicants that are  
36 a party to a collective bargaining agreement with a bona-fide labor  
37 organization in New York or in another state, and uses union labor to  
38 construct its licensed facility;

39 (i) the applicant will contribute to communities and people dispropor-  
40 tionately harmed by cannabis law enforcement and report these contrib-  
41 utions to the office;

42 (j) if the application is for an adult-use cultivator or processor  
43 license, the environmental impact of the facility to be licensed; and

44 (k) the applicant satisfies any other conditions as determined by the  
45 executive director.

46 2. If the executive director is not satisfied that the applicant  
47 should be issued a license, the executive director shall notify the  
48 applicant in writing of the specific reason or reasons for denial.

49 3. The executive director shall have the authority to, in consultation  
50 with the cannabis advisory board, determine the number of licenses  
51 issued pursuant to this article.

52 § 65. Limitations of licensure; duration. 1. No license of any kind  
53 may be issued to a person under the age of twenty-one years, nor shall  
54 any licensee employ anyone under the age of twenty-one years.

55 2. No licensee shall sell, deliver, or give away or cause or permit or  
56 procure to be sold, delivered or given away any cannabis to any person,

1 actually or apparently, under the age of twenty-one years unless the  
2 person under twenty-one is also a certified patient and the licensee is  
3 appropriately licensed under article three of this chapter.

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

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

9 § 66. License renewal. 1. Each license, issued pursuant to this arti-  
10 cle, may be renewed upon application therefore by the licensee and the  
11 payment of the fee for such license as prescribed by this article. In  
12 the case of applications for renewals, the office may dispense with the  
13 requirements of such statements as it deems unnecessary in view of those  
14 contained in the application made for the original license, but in any  
15 event the submission of photographs of the licensed premises shall be  
16 dispensed with, provided the applicant for such renewal shall file a  
17 statement with the office to the effect that there has been no alter-  
18 ation of such premises since the original license was issued. The office  
19 may make such rules as it deems necessary, not inconsistent with this  
20 chapter, regarding applications for renewals of licenses and permits and  
21 the time for making the same.

22 2. Each applicant must submit to the office documentation of the  
23 racial, ethnic, and gender diversity of the applicant's employees and  
24 owners prior to a license being renewed. In addition, the office may  
25 create a social responsibility framework agreement and make the adher-  
26 ence to such agreement a conditional requirement of license renewal.

27 3. The office shall provide an application for renewal of a license  
28 issued under this article not less than ninety days prior to the expira-  
29 tion of the current license.

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

34 5. Each applicant must maintain a labor peace agreement with a bona-  
35 fide labor organization that is actively engaged in representing or  
36 attempting to represent the applicant's employees and the maintenance of  
37 such a labor peace agreement shall be an ongoing material condition of  
38 licensure. Each applicant must provide evidence of the execution of  
39 their plan for benefitting communities and people required for initial  
40 licensing pursuant to section sixty-four of this article.

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

42 1. Licenses issued pursuant to this article shall specify:

- 43 (a) the name and address of the licensee;
- 44 (b) the activities permitted by the license;
- 45 (c) the land, buildings and facilities that may be used for the  
46 licensed activities of the licensee;
- 47 (d) a unique license number issued by the office to the licensee; and
- 48 (e) such other information as the executive director shall deem neces-  
49 sary to assure compliance with this chapter.

50 2. Upon application of a licensee to the office, a license may be  
51 amended to allow the licensee to relocate within the state, to add or  
52 delete licensed activities or facilities, or to amend the ownership or  
53 organizational structure of the entity that is the licensee. The execu-  
54 tive director shall establish a fee for such amendments.

55 3. A license shall become void by a change in ownership, substantial  
56 corporate change or location without prior written approval of the exec-

1 utive director. The executive director may promulgate regulations allow-  
2 ing for certain types of changes in ownership without the need for prior  
3 written approval.

4 4. For purposes of this section, "substantial corporate change" shall  
5 mean:

6 (a) for a corporation, a change of eighty percent or more of the offi-  
7 cers and/or directors, or a transfer of eighty percent or more of stock  
8 of such corporation, or an existing stockholder obtaining eighty percent  
9 or more of the stock of such corporation; or

10 (b) for a limited liability company, a change of eighty percent or  
11 more of the managing members of the company, or a transfer of eighty  
12 percent or more of ownership interest in said company, or an existing  
13 member obtaining a cumulative of eighty percent or more of the ownership  
14 interest in said company.

15 § 68. Adult-use cultivator license. 1. An adult-use cultivator's  
16 license shall authorize the acquisition, possession, cultivation and  
17 sale of cannabis from the licensed premises of the adult-use cultivator  
18 by such licensee to duly licensed processors in this state. The execu-  
19 tive director may establish regulations allowing licensed adult-use  
20 cultivators to perform certain types of minimal processing without the  
21 need for an adult-use processor license.

22 2. For purposes of this section, cultivation shall include, but not be  
23 limited to, the planting, growing, cloning, harvesting, drying, curing,  
24 grading and trimming of cannabis.

25 3. A person holding an adult-use cultivator's license may apply for,  
26 and obtain, one processor's license and one distributor's license that  
27 may only be used to distribute their own cannabis and cannabis products.

28 4. A person holding an adult-use cultivator's license may not also  
29 hold a retail dispensary license pursuant to this article and no adult-  
30 use cannabis cultivator shall have a direct or indirect interest,  
31 including by stock ownership, interlocking directors, mortgage or lien,  
32 personal or real property, or any other means, in any premises licensed  
33 as an adult-use cannabis retail dispensary or in any business licensed  
34 as an adult-use cannabis retail dispensary pursuant to this article.

35 5. A person holding an adult-use cultivator's license may not hold a  
36 license to distribute cannabis under this article unless the licensed  
37 cultivator is also licensed as a processor under this article.

38 6. No person may have a direct or indirect financial or controlling  
39 interest in more than one adult-use cultivator license issued pursuant  
40 to this chapter.

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

45 2. For purposes of this section, processing shall include, but not be  
46 limited to, blending, extracting, infusing, packaging, labeling, brand-  
47 ing and otherwise making or preparing cannabis products. Processing  
48 shall not include the cultivation of cannabis.

49 3. No processor shall be engaged in any other business on the premises  
50 to be licensed; except that nothing contained in this chapter shall  
51 prevent a cannabis cultivator, cannabis processor, and cannabis distrib-  
52 utor from operating on the same premises and from a person holding all  
53 three licenses.

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

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

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

12 2. To be licensed as an adult-use cooperative, the cooperative must:

13 (i) be comprised of residents of the state of New York as a limited  
14 liability company or limited liability partnership under the laws of the  
15 state, or an appropriate business structure as determined by the execu-  
16 tive director;

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

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

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

25 (v) the cooperative must operate according to the seven cooperative  
26 principles published by the International Cooperative Alliance in nine-  
27 teen hundred ninety-five.

28 3. No natural person shall be a member of more than one adult-use  
29 cooperative licensed pursuant to this section.

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

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

39 6. The executive director shall promulgate regulations governing coop-  
40 erative licenses, including, but not limited to, the establishment of  
41 canopy limits on the size and scope of cooperative licensees, and other  
42 measures designed to incentivize the use and licensure of cooperatives.

43 § 71. Adult-use distributor license. 1. A distributor's license shall  
44 authorize the acquisition, possession, distribution and sale of cannabis  
45 from the licensed premises of a licensed adult-use processor, microbusi-  
46 ness or registered organization authorized pursuant to this chapter to  
47 sell adult-use cannabis, to duly licensed retail dispensaries.

48 2. No distributor shall have a direct or indirect economic interest in  
49 any adult-use retail dispensary licensed pursuant to this article, or in  
50 any registered organization registered pursuant to article three of this  
51 chapter. This restriction shall not prohibit a registered organization  
52 authorized pursuant to section thirty-nine of this chapter, from being  
53 granted licensure by the office to distribute adult-use cannabis  
54 products cultivated and processed by the registered organization only to  
55 the registered organization's own licensed adult-use retail dispensar-  
56 ies.

1 3. Nothing in subdivision two of this section shall prevent a distrib-  
2 utor from charging an appropriate fee for the distribution of cannabis,  
3 including based on the volume of cannabis distributed.

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

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

11 3. No person holding a retail dispensary license may also hold an  
12 adult-use cultivation, processor, microbusiness, cooperative or distrib-  
13 utor license pursuant to this article.

14 4. No retail license shall be granted for any premises, unless the  
15 applicant shall be the owner thereof, or shall be able to demonstrate  
16 possession of the premises within thirty days of initial approval of the  
17 license through a lease, management agreement or other agreement giving  
18 the applicant control over the premises, in writing, for a term not less  
19 than the license period.

20 5. With the exception of microbusiness licensees, no premises shall be  
21 licensed to sell cannabis products, unless said premises shall be  
22 located in a store, the principal entrance to which shall be from the  
23 street level and located on a public thoroughfare in premises which may  
24 be occupied, operated or conducted for business, trade or industry or on  
25 an arcade or sub-surface thoroughfare leading to a railroad terminal.

26 6. No cannabis retail license shall be granted for any premises within  
27 two hundred feet of a school grounds as such term is defined in the  
28 education law.

29 § 73. Microbusiness license. 1. A microbusiness license shall author-  
30 ize the limited cultivation, processing, distribution and dispensing of  
31 adult use cannabis and cannabis products.

32 2. A microbusiness licensee may not hold interest in any other license  
33 and may only distribute its own cannabis and cannabis products to  
34 dispensaries.

35 3. The size and scope of a microbusiness shall be determined by regu-  
36 lation by the executive director in consultation with the cannabis advi-  
37 sory board.

38 § 74. Notification to municipalities of adult-use retail dispensary.  
39 1. Not less than thirty days nor more than two hundred seventy days  
40 before filing an application for licensure as an adult-use cannabis  
41 retail dispensary, an applicant shall notify the municipality in which  
42 the premises is located of such applicant's intent to file such an  
43 application.

44 2. Such notification shall be made to the clerk of the village, town  
45 or city, as the case may be, wherein the premises is located. For  
46 purposes of this section:

47 (a) notification need only be given to the clerk of a village when the  
48 premises is located within the boundaries of the village; and

49 (b) in the city of New York, the community board established pursuant  
50 to section twenty-eight hundred of the New York city charter with juris-  
51 diction over the area in which the premises is located shall be consid-  
52 ered the appropriate public body to which notification shall be given.

53 3. Such notification shall be made in such form as shall be prescribed  
54 by the rules of the office.

55 4. A municipality may express an opinion for or against the granting  
56 of such application. Any such opinion shall be deemed part of the record

1 upon which the office makes its determination to grant or deny the  
2 application.

3 5. Such notification shall be made by: (a) certified mail, return  
4 receipt requested; (b) overnight delivery service with proof of mailing;  
5 or (c) personal service upon the offices of the clerk or community  
6 board.

7 6. The office shall require such notification to be on a standardized  
8 form that can be obtained on the internet or from the office and such  
9 notification to include:

10 (a) the trade name or "doing business as" name, if any, of the estab-  
11 lishment;

12 (b) the full name of the applicant;

13 (c) the street address of the establishment, including the floor  
14 location or room number, if applicable;

15 (d) the mailing address of the establishment, if different than the  
16 street address;

17 (e) the name, address and telephone number of the attorney or repre-  
18 sentative of the applicant, if any;

19 (f) a statement indicating whether the application is for:

20 (i) a new establishment;

21 (ii) a transfer of an existing licensed business;

22 (iii) a renewal of an existing license; or

23 (iv) an alteration of an existing licensed premises;

24 (g) if the establishment is a transfer or previously licensed prem-  
25 ises, the name of the old establishment and such establishment's regis-  
26 tration or license number;

27 (h) in the case of a renewal or alteration application, the registra-  
28 tion or license number of the applicant; and

29 (i) the type of license.

30 § 75. On-site consumption license; provisions governing on-site  
31 consumption licenses. 1. No licensed adult-use cannabis retail dispen-  
32 sary shall be granted a cannabis on-site consumption license for any  
33 premises, unless the applicant shall be the owner thereof, or shall be  
34 in possession of said premises under a lease, in writing, for a term not  
35 less than the license period except, however, that such license may  
36 thereafter be renewed without the requirement of a lease as provided in  
37 this section. This subdivision shall not apply to premises leased from  
38 government agencies; provided, however, that the appropriate administra-  
39 tor of such government agency provides some form of written documenta-  
40 tion regarding the terms of occupancy under which the applicant is leas-  
41 ing said premises from the government agency for presentation to the  
42 office at the time of the license application. Such documentation shall  
43 include the terms of occupancy between the applicant and the government  
44 agency, including, but not limited to, any short-term leasing agreements  
45 or written occupancy agreements.

46 2. No adult-use cannabis retail dispensary shall be granted a cannabis  
47 on-site consumption license for any premises within two hundred feet of  
48 school grounds as such term is defined in the education law.

49 3. The office may consider any or all of the following in determining  
50 whether public convenience and advantage and the public interest will be  
51 promoted by the granting of a license for an on-site cannabis consump-  
52 tion at a particular location:

53 (a) that it is a privilege, and not a right, to cultivate, process,  
54 distribute, and sell cannabis;



1 (b) the number, classes, and character of other licenses in proximity  
2 to the location and in the particular municipality or subdivision there-  
3 of;

4 (c) evidence that all necessary licenses and permits have been  
5 obtained from the state and all other governing bodies;

6 (d) whether there is a demonstrated need for spaces to consume canna-  
7 bis;

8 (e) effect of the grant of the license on pedestrian or vehicular  
9 traffic, and parking, in proximity to the location;

10 (f) the existing noise level at the location and any increase in noise  
11 level that would be generated by the proposed premises; and

12 (g) any other factors specified by law or regulation that are relevant  
13 to determine that granting a license would promote public convenience  
14 and advantage and the public interest of the community.

15 4. If the office shall disapprove an application for an on-site  
16 consumption license, it shall state and file in its offices the reasons  
17 therefor and shall notify the applicant thereof. Such applicant may  
18 thereupon apply to the office for a review of such action in a manner to  
19 be prescribed by the rules of the office.

20 5. No adult-use cannabis on-site consumption licensee shall keep upon  
21 the licensed premises any adult-use cannabis products except those  
22 purchased from a licensed distributor, adult-use cooperative, or micro-  
23 business authorized to sell adult-use cannabis, and only in containers  
24 approved by the office. Such containers shall have affixed thereto such  
25 labels as may be required by the rules of the office. No cannabis  
26 retail licensee for on-site consumption shall reuse, refill, tamper  
27 with, adulterate, dilute or fortify the contents of any container of  
28 cannabis products as received from the manufacturer or distributor.

29 6. No cannabis on-site consumption licensee shall sell, deliver or  
30 give away, or cause or permit or procure to be sold, delivered or given  
31 away any cannabis for consumption on the premises where sold in a  
32 container or package containing more than one gram of cannabis flower or  
33 one serving of cannabis infused product.

34 7. Except where a permit to do so is obtained pursuant to section  
35 405.10 of the penal law, no cannabis on-site consumption licensee shall  
36 suffer, permit, or promote an event on its premises wherein any person  
37 shall use, explode, or cause to explode, any fireworks or other pyro-  
38 technics in a building as defined in paragraph e of subdivision one of  
39 section 405.10 of the penal law, that is covered by such license or  
40 possess such fireworks or pyrotechnics for such purpose. In addition to  
41 any other penalty provided by law, a violation of this subdivision shall  
42 constitute an adequate ground for instituting a proceeding to suspend,  
43 cancel, or revoke the license of the violator in accordance with the  
44 applicable procedures specified in this chapter; provided however, if  
45 more than one licensee is participating in a single event, upon approval  
46 by the office, only one licensee must obtain such permit.

47 8. No premises licensed to sell adult-use cannabis for on-site  
48 consumption under this chapter shall be permitted to have any opening or  
49 means of entrance or passageway for persons or things between the  
50 licensed premises and any other room or place in the building containing  
51 the licensed premises, or any adjoining or abutting premises, unless  
52 ingress and egress is restricted by an employee, agent of the licensee,  
53 or other method approved by the office of controlling access to the  
54 facility.

55 9. Each cannabis on-site consumption licensee shall keep and maintain  
56 upon the licensed premises, adequate records of all transactions involv-

1 ing the business transacted by such licensee which shall show the amount  
2 of cannabis products, in an applicable metric measurement, purchased by  
3 such licensee together with the names, license numbers and places of  
4 business of the persons from whom the same were purchased, the amount  
5 involved in such purchases, as well as the sales of cannabis products  
6 made by such licensee. The office is hereby authorized to promulgate  
7 rules and regulations permitting an on-site licensee operating two or  
8 more premises separately licensed to sell cannabis products for on-site  
9 consumption to inaugurate or retain in this state methods or practices  
10 of centralized accounting, bookkeeping, control records, reporting,  
11 billing, invoicing or payment respecting purchases, sales or deliveries  
12 of cannabis products, or methods and practices of centralized receipt or  
13 storage of cannabis products within this state without segregation or  
14 earmarking for any such separately licensed premises, wherever such  
15 methods and practices assure the availability, at such licensee's  
16 central or main office in this state, of data reasonably needed for the  
17 enforcement of this chapter. Such records shall be available for  
18 inspection by any authorized representative of the office.

19 10. All retail licensed premises shall be subject to inspection by any  
20 peace officer, acting pursuant to his or her special duties, or police  
21 officer and by the duly authorized representatives of the office, during  
22 the hours when the said premises are open for the transaction of busi-  
23 ness.

24 11. A cannabis on-site consumption licensee shall not provide cannabis  
25 products to any person under the age of twenty-one.

26 § 76. Record keeping and tracking. 1. The executive director shall, by  
27 regulation, require each licensee pursuant to this article to adopt and  
28 maintain security, tracking, record keeping, record retention and  
29 surveillance systems, relating to all cannabis at every stage of acquir-  
30 ing, possession, manufacture, sale, delivery, transporting, testing or  
31 distributing by the licensee, subject to regulations of the executive  
32 director.

33 2. Every licensee shall keep and maintain upon the licensed premises  
34 adequate books and records of all transactions involving the licensee  
35 and sale of its products, which shall include, but is not limited to,  
36 all information required by any rules promulgated by the office.

37 3. Each sale shall be recorded separately on a numbered invoice, which  
38 shall have printed thereon the number, the name of the licensee, the  
39 address of the licensed premises, and the current license number.  
40 Licensed producers shall deliver to the licensed distributor a true  
41 duplicate invoice stating the name and address of the purchaser, the  
42 quantity purchased, description and the price of the product, and a  
43 true, accurate and complete statement of the terms and conditions on  
44 which such sale is made.

45 4. Such books, records and invoices shall be kept for a period of five  
46 years and shall be available for inspection by any authorized represen-  
47 tative of the office.

48 5. Each adult-use cannabis retail dispensary, microbusiness, and  
49 on-site consumption licensee shall keep and maintain upon the licensed  
50 premises, adequate records of all transactions involving the business  
51 transacted by such licensee which shall show the amount of cannabis, in  
52 weight, purchased by such licensee together with the names, license  
53 numbers and places of business of the persons from whom the same were  
54 purchased, the amount involved in such purchases, as well as the sales  
55 of cannabis made by such licensee.

1 § 77. Inspections and ongoing requirements. All licensed or permitted  
2 premises, regardless of the type of premises, shall be subject to  
3 inspection by the office, by the duly authorized representatives of the  
4 office, by any peace officer acting pursuant to his or her special  
5 duties, or by a police officer, during the hours when the said premises  
6 are open for the transaction of business. The office shall make reason-  
7 able accommodations so that ordinary business is not interrupted and  
8 safety and security procedures are not compromised by the inspection. A  
9 person who holds a license or permit must make himself or herself, or an  
10 agent thereof, available and present for any inspection required by the  
11 office. Such inspection may include, but is not limited to, ensuring  
12 compliance by the licensee or permittee with all other applicable build-  
13 ing codes, fire, health, safety, and governmental regulations, including  
14 at the municipal, county, and state level.

15 § 78. Adult-use cultivators, processors or distributors not to be  
16 interested in retail dispensaries. 1. It shall be unlawful for a culti-  
17 vator, processor, cooperative or distributor licensed under this article  
18 to:

19 (a) be interested directly or indirectly in any premises where any  
20 cannabis product is sold at retail; or in any business devoted wholly or  
21 partially to the sale of any cannabis product at retail by stock owner-  
22 ship, interlocking directors, mortgage or lien or any personal or real  
23 property, or by any other means.

24 (b) make, or cause to be made, any loan to any person engaged in the  
25 manufacture or sale of any cannabis product at wholesale or retail.

26 (c) make any gift or render any service of any kind whatsoever,  
27 directly or indirectly, to any person licensed under this chapter which  
28 in the judgment of the office may tend to influence such licensee to  
29 purchase the product of such cultivator or processor or distributor.

30 (d) enter into any contract with any retail licensee whereby such  
31 licensee agrees to confine his sales to cannabis products manufactured  
32 or sold by one or more such cultivator or processors or distributors.  
33 Any such contract shall be void and subject the licenses of all parties  
34 concerned to revocation for cause.

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

41 3. The office shall have the power to create rules and regulations in  
42 regard to this section.

43 § 79. Packaging and labeling of adult-use cannabis products. 1. The  
44 office is hereby authorized to promulgate rules and regulations govern-  
45 ing the advertising, branding, marketing, packaging and labeling of  
46 cannabis products, sold or possessed for sale in New York state, includ-  
47 ing rules pertaining to the accuracy of information and rules restrict-  
48 ing marketing and advertising to youth.

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

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

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

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

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

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

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

14 5. The packaging, sale, marketing, branding, advertising, labeling or  
15 possession by any licensee of any cannabis product not labeled or  
16 offered in conformity with rules and regulations promulgated in accord-  
17 ance with this section shall be grounds for the imposition of a fine,  
18 and/or the suspension, revocation or cancellation of a license.

19 § 80. Laboratory testing. 1. Every processor of adult-use cannabis  
20 shall contract with an independent laboratory permitted pursuant to  
21 section one hundred twenty-nine of this chapter, to test the cannabis  
22 products it produces pursuant to rules and regulations prescribed by the  
23 office. The executive director may assign an approved testing laborato-  
24 ry, which the processor of adult-use cannabis must use.

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

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

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

36 5. An owner of a cannabis laboratory testing permit shall not hold a  
37 license in any other category within this article and shall not own or  
38 have ownership interest in a registered organization registered pursuant  
39 to article three of this chapter.

40 6. The office shall have the authority to require any licensee under  
41 this article to submit cannabis or cannabis products to one or more  
42 independent laboratories for testing.

43 § 81. Provisions governing the cultivation and processing of adult-use  
44 cannabis. 1. Cultivation of cannabis must not be visible from a public  
45 place by normal unaided vision.

46 2. No cultivator or processor of adult-use cannabis shall sell, or  
47 agree to sell or deliver in the state any cannabis products, as the case  
48 may be, except in sealed containers containing quantities in accordance  
49 with size standards pursuant to rules adopted by the office. Such  
50 containers shall have affixed thereto such labels as may be required by  
51 the rules of the office.

52 3. No cultivator or processor of adult-use cannabis shall furnish or  
53 cause to be furnished to any licensee, any exterior or interior sign,  
54 printed, painted, electric or otherwise, except as authorized by the  
55 office. The office may make such rules as it deems necessary to carry  
56 out the purpose and intent of this subdivision.

1 4. Cultivators of adult-use cannabis shall comply with plant culti-  
2 vation regulations, standards, and guidelines issued by the office, in  
3 consultation with the department of environmental conservation. Such  
4 regulations, standards, and guidelines shall be guided by sustainable  
5 farming principles and practices such as organic, regenerative, and  
6 integrated pest management models, and shall restrict whenever possible,  
7 the use of pesticides, herbicides, and fungicides to those which are  
8 botanical and/or biological.

9 5. No cultivator or processor of adult-use cannabis, including an  
10 adult-use cannabis cooperative or microbusiness may offer any incentive,  
11 payment or other benefit to a licensed cannabis retail dispensary in  
12 return for carrying the cultivator, processor, cooperative or microbusi-  
13 ness products, or preferential shelf placement.

14 6. All cannabis products shall be processed in accordance with good  
15 manufacturing processes, pursuant to Part 111 of Title 21 of the Code of  
16 Federal Regulations, as may be modified by the executive director in  
17 regulation.

18 7. No processor of adult-use cannabis shall produce any product which,  
19 in the discretion of the office, is designed to appeal to anyone under  
20 the age of twenty-one years.

21 8. The use or integration of alcohol or nicotine in cannabis products  
22 is strictly prohibited.

23 § 82. Provisions governing the distribution of adult-use cannabis. 1.  
24 No distributor shall sell, or agree to sell or deliver any cannabis  
25 products, as the case may be, in any container, except in a sealed pack-  
26 age. Such containers shall have affixed thereto such labels as may be  
27 required by the rules of the office.

28 2. No distributor shall deliver any cannabis products, except in vehi-  
29 cles owned and operated by such distributor, or hired and operated by  
30 such distributor from a trucking or transportation company registered  
31 with the office, and shall only make deliveries at the licensed premises  
32 of the purchaser.

33 3. Each distributor shall keep and maintain upon the licensed prem-  
34 ises, adequate books and records of all transactions involving the busi-  
35 ness transacted by such distributor, which shall show the amount of  
36 cannabis products purchased by such distributor together with the names,  
37 license numbers and places of business of the persons from whom the same  
38 was purchased and the amount involved in such purchases, as well as the  
39 amount of cannabis products sold by such distributor together with the  
40 names, addresses, and license numbers of such purchasers. Each sale  
41 shall be recorded separately on a numbered invoice, which shall have  
42 printed thereon the number, the name of the licensee, the address of the  
43 licensed premises, and the current license number. Such distributor  
44 shall deliver to the purchaser a true duplicate invoice stating the name  
45 and address of the purchaser, the quantity of cannabis products, and a  
46 description by brands and the price of such cannabis products, and a  
47 true, accurate and complete statement of the terms and conditions on  
48 which such sale is made. Such books, records and invoices shall be kept  
49 for a period of five years and shall be available for inspection by any  
50 authorized representative of the office.

51 4. No distributor shall furnish or cause to be furnished to any licen-  
52 see, any exterior or interior sign, printed, painted, electric or other-  
53 wise, unless authorized by the office.

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

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

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

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

19 2. No cannabis retail licensee shall sell alcoholic beverages, nor  
20 have or possess a license or permit to sell alcoholic beverages, on the  
21 same premises where cannabis products are sold.

22 3. No sign of any kind printed, painted or electric, advertising any  
23 brand shall be permitted on the exterior or interior of such premises,  
24 except by permission of the office.

25 4. No cannabis retail licensee shall sell or deliver any cannabis  
26 products to any person with knowledge of, or with reasonable cause to  
27 believe, that the person to whom such cannabis products are being sold,  
28 has acquired the same for the purpose of selling or giving them away in  
29 violation of the provisions of this chapter or in violation of the rules  
30 and regulations of the office.

31 5. All premises licensed under this section shall be subject to  
32 inspection by any peace officer described in subdivision four of section  
33 2.10 of the criminal procedure law acting pursuant to his or her special  
34 duties, or police officer or any duly authorized representative of the  
35 office, during the hours when the said premises are open for the trans-  
36 action of business.

37 6. No cannabis retail licensee shall be interested, directly or indi-  
38 rectly, in any cultivator, processor, distributor or microbusiness oper-  
39 ator licensed pursuant to this article, by stock ownership, interlocking  
40 directors, mortgage or lien on any personal or real property or by any  
41 other means. Any lien, mortgage or other interest or estate, however,  
42 now held by such retailer on or in the personal or real property of such  
43 manufacturer or distributor, which mortgage, lien, interest or estate  
44 was acquired on or before December thirty-first, two thousand eighteen,  
45 shall not be included within the provisions of this subdivision;  
46 provided, however, the burden of establishing the time of the accrual of  
47 the interest comprehended by this subdivision, shall be upon the person  
48 who claims to be entitled to the protection and exemption afforded here-  
49 by.

50 7. No cannabis retail licensee shall make or cause to be made any loan  
51 to any person engaged in the cultivation, processing or distribution of  
52 cannabis pursuant to this article.

53 8. Each cannabis retail licensee shall designate the price of each  
54 item of cannabis by attaching to or otherwise displaying immediately  
55 adjacent to each such item displayed in the interior of the licensed

1 premises where sales are made a price tag, sign or placard setting forth  
2 the price at which each such item is offered for sale therein.

3 9. No person licensed to sell cannabis products at retail, shall allow  
4 or permit any gambling, or offer any gambling on the licensed premises,  
5 or allow or permit illicit drug activity on the licensed premises. The  
6 use of the licensed premises or any part thereof for the sale of lottery  
7 tickets, when duly authorized and lawfully conducted thereon, shall not  
8 constitute gambling within the meaning of this subdivision.

9 10. If an employee of a cannabis retail licensee suspects that a  
10 cannabis consumer may be abusing cannabis, such an employee shall  
11 encourage such cannabis consumer to seek help from a substance use  
12 disorder program or harm reduction services. Cannabis retail licensees  
13 shall develop standard operating procedures and written materials for  
14 employees to utilize when consulting consumers for purposes of this  
15 subdivision.

16 11. The executive director is authorized to promulgate regulations  
17 governing licensed adult-use dispensing facilities, including but not  
18 limited to, the hours of operation, size and location of the licensed  
19 facility, potency and types of products offered and establishing a mini-  
20 mum margin for which a retail dispensary must markup a cannabis product  
21 or products before selling to a cannabis consumer. Any adult-use canna-  
22 bis product sold by a retail dispensary for less than the minimum markup  
23 allowed in regulation, shall be unlawful.

24 § 84. Adult-use cannabis advertising. 1. The office is hereby author-  
25 ized to promulgate rules and regulations governing the advertising and  
26 marketing of licensed cannabis and any cannabis products or services.

27 2. The office shall promulgate explicit rules prohibiting advertising  
28 that:

- 29 (a) is false, deceptive, or misleading;
- 30 (b) promotes overconsumption;
- 31 (c) depicts consumption by children or other minors;
- 32 (d) is designed in any way to appeal to children or other minors;
- 33 (e) is within two hundred feet of the perimeter of a school grounds,  
34 playground, child care center, public park, or library;
- 35 (f) is within two hundred feet of school grounds as such term is  
36 defined in section 220.00 of the penal law;
- 37 (g) is in public transit vehicles and stations;
- 38 (h) is in the form of an unsolicited internet pop-up;
- 39 (i) is on publicly owned or operated property; or
- 40 (j) makes medical claims or promotes adult-use cannabis for a medical  
41 or wellness purpose.

42 3. The office shall promulgate explicit rules prohibiting all market-  
43 ing strategies and implementation including, but not limited to, brand-  
44 ing, packaging, labeling, location of cannabis retailers, and advertise-  
45 ments that are designed to:

- 46 (a) appeal to persons less than twenty-one years of age; or
  - 47 (b) disseminate false or misleading information to customers.
- 48 4. The office shall promulgate explicit rules requiring that:
- 49 (a) all advertisements and marketing accurately and legibly identify  
50 the licensee or other business responsible for its content; and
  - 51 (b) any broadcast, cable, radio, print and digital communications  
52 advertisements only be placed where the audience is reasonably expected  
53 to be twenty-one years of age or older, as determined by reliable,  
54 up-to-date audience composition data.

55 § 85. Social and economic equity, minority and women-owned businesses,  
56 and disadvantaged farmers; incubator program. 1. The office shall

1 implement a social and economic equity plan and actively promote appli-  
2 cants from communities disproportionately impacted by cannabis prohibi-  
3 tion, and promote racial, ethnic, and gender diversity when issuing  
4 licenses for adult-use cannabis related activities, including by prior-  
5 itizing consideration of applications by applicants who are from commu-  
6 nities disproportionately impacted by the enforcement of cannabis prohi-  
7 bition or who qualify as a minority or women-owned business, or  
8 disadvantaged farmers. Such qualifications shall be determined by the  
9 office in regulation.

10 2. The office shall create a social and economic equity plan to  
11 promote diversity in ownership and employment, and opportunities for  
12 social and economic equity in the adult-use cannabis industry and ensure  
13 inclusion of:

14 (a) individuals from communities disproportionately impacted by the  
15 enforcement of cannabis prohibition;

16 (b) minority-owned businesses;

17 (c) women-owned businesses;

18 (d) minority and women-owned businesses, as defined in paragraph (d)  
19 of subdivision five of this section; and

20 (e) disadvantaged farmers, as defined in subdivision five of this  
21 section.

22 3. The social and economic equity plan shall consider additional  
23 criteria in its licensing determinations. Under the social and economic  
24 equity plan, extra weight shall be given to applications that demon-  
25 strate that an applicant:

26 (a) is a member of a community disproportionately impacted by the  
27 enforcement of cannabis prohibition;

28 (b) has an income lower than eighty percent of the median income of  
29 the county in which the applicant resides; and

30 (c) was convicted of a cannabis-related offense prior to the effective  
31 date of this chapter, or had a parent, guardian, child, spouse, or  
32 dependent, or was a dependent of an individual who, prior to the effec-  
33 tive date of this chapter, was convicted of a cannabis-related offense.

34 4. The office shall also create an incubator program to provide direct  
35 support to social and economic equity applicants to achieve and upon  
36 having been granted licenses. The program shall provide direct support  
37 in the form of counseling services, education, small business coaching,  
38 and compliance assistance.

39 5. For the purposes of this section, the following definitions shall  
40 apply:

41 (a) "minority-owned business" shall mean a business enterprise,  
42 including a sole proprietorship, partnership, limited liability company  
43 or corporation that is:

44 (i) at least fifty-one percent owned by one or more minority group  
45 members;

46 (ii) an enterprise in which such minority ownership is real, substan-  
47 tial and continuing;

48 (iii) an enterprise in which such minority ownership has and exercises  
49 the authority to control independently the day-to-day business decisions  
50 of the enterprise;

51 (iv) an enterprise authorized to do business in this state and inde-  
52 pendently owned and operated; and

53 (v) an enterprise that is a small business.

54 (b) "minority group member" shall mean a United States citizen or  
55 permanent resident alien who is and can demonstrate membership in one of  
56 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 office.

38 (f) "communities disproportionately impacted" shall mean, but not be  
39 limited to, a history of arrests, convictions, and other law enforcement  
40 practices in a certain geographic area, such as, but not limited to,  
41 precincts, zip codes, neighborhoods, and political subdivisions,  
42 reflecting a disparate enforcement of cannabis prohibition during a  
43 certain time period, when compared to the rest of the state. The office  
44 shall, in consultation with the cannabis advisory board, issue guide-  
45 lines to determine how to assess which communities have been dispropor-  
46 tionately impacted and how to assess if someone is a member of a commu-  
47 nity disproportionately impacted.

48 6. The office shall actively promote applicants that foster racial,  
49 ethnic, and gender diversity in their workforce.

50 7. Licenses issued under the social and economic equity plan shall not  
51 be transferable except to qualified social and economic equity appli-  
52 cants and only upon prior written approval of the executive director.

53 8. The office shall collect demographic data on owners and employees  
54 in the adult-use cannabis industry and shall annually publish such data.

1 § 86. Regulations. The executive director shall promulgate regu-  
2 lations in consultation with the cannabis advisory board to implement  
3 this article.

4 ARTICLE 5  
5 HEMP EXTRACT

6 Section 90. Definitions.

- 7 91. Rulemaking authority.  
8 92. Cannabinoid related hemp extract licensing.  
9 93. Cannabinoid grower licenses.  
10 94. Cannabinoid manufacturer license.  
11 95. Cannabinoid extractor license.  
12 96. Cannabinoid license applications.  
13 97. Information to be requested in applications for licenses.  
14 98. Fees.  
15 99. Selection criteria.  
16 100. Limitations of licensure; duration.  
17 101. License renewal.  
18 102. Form of license.  
19 103. Amendments to license and duty to update information  
20 submitted for licensing.  
21 104. Record keeping and tracking.  
22 105. Inspections and ongoing requirements.  
23 106. Packaging and labeling of hemp extract.  
24 107. Provisions governing the growing, manufacturing and  
25 extracting of hemp extract.  
26 108. Laboratory testing.  
27 109. Advertising.  
28 110. Research.  
29 111. Regulations.  
30 112. Cannabinoid permit.  
31 113. New York hemp product.  
32 114. Penalties and violations of this article.  
33 115. Hemp workgroup.  
34 116. Prohibitions.

35 § 90. Definitions. Wherever used in this article unless otherwise  
36 expressly stated or unless the context or subject matter requires a  
37 different meaning, the following terms shall have the representative  
38 meanings hereinafter set forth or indicated:

39 1. "Applicant" means a for-profit entity or not-for-profit corporation  
40 and includes board members who submit an application to become a licen-  
41 see.

42 2. "Hemp extract" means any product made or derived from industrial  
43 hemp, including the seeds thereof and all derivatives whether growing or  
44 not, with a delta-9-tetrahydrocannabinol concentration of not more than  
45 an amount of the plant Cannabis sativa L. and any part of such plant,  
46 including the seeds thereof and all derivatives, extracts, cannabinoids,  
47 isomers, acids, salts, and salts of isomers, whether growing or not,  
48 with a delta-9-tetrahydrocannabinol concentration of not more than an  
49 amount determined by the office in regulation, used or intended for  
50 human or animal consumption or use for its cannabinoid content, as  
51 determined by the office in regulation. Hemp extract excludes industrial  
52 hemp used or intended exclusively for an industrial purpose and those  
53 food and/or food ingredients that are generally recognized as safe by  
54 the department of agriculture and markets, and shall not be regulated as  
55 hemp extract within the meaning of this article.

1 3. "Cannabinoid grower" means a person licensed by the office, and in  
2 compliance with this article to acquire, possess, cultivate, and sell  
3 hemp extract for its cannabinoid content.

4 4. "Cannabinoid manufacturer" means a person licensed by the office to  
5 acquire, possess, and manufacture hemp extract from licensed cannabinoid  
6 growers or cannabinoid extractors for the manufacture and sale of hemp  
7 extract products marketed for cannabinoid content and used or intended  
8 for human or animal consumption or use.

9 5. "Cannabinoid extractor" means a person licensed by the office to  
10 acquire, possess, extract and manufacture hemp extract from licensed  
11 cannabinoid growers for the manufacture and sale of hemp extract  
12 products marketed for cannabinoid content and used or intended for human  
13 or animal consumption or use.

14 6. "License" means a license issued pursuant to this article.

15 7. "Industrial hemp" means the plant *Cannabis sativa* L. and any part  
16 of such plant, including the seeds thereof and all derivatives,  
17 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
18 whether growing or not, with a delta-9-tetrahydrocannabinol concen-  
19 tration of not more than 0.3 percent on a dry weight basis.

20 § 91. Rulemaking authority. 1. The office shall perform such acts,  
21 prescribe such forms and propose such rules, regulations and orders as  
22 it may deem necessary or proper to fully effectuate the provisions of  
23 this article.

24 2. In consultation with the cannabis advisory board and the hemp work-  
25 group, the office shall have the power to promulgate any and all neces-  
26 sary rules and regulations governing the production, processing, trans-  
27 portation, distribution, and sale of hemp extract, including but not  
28 limited to the licensing of cannabinoid growers, manufacturers, extrac-  
29 tors and retailers, including, but not limited to:

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

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

34 (c) limitations on the number of licenses to be awarded;

35 (d) the books and records to be created and maintained by licensees,  
36 and permittees, including the reports to be made thereon to the office,  
37 and inspection of any and all books and records maintained by any licen-  
38 see, or permittee, and on the premises of any licensee or permittee;

39 (e) methods of producing, processing, and packaging hemp extract;  
40 conditions of sanitation, and standards of ingredients, quality, and  
41 identity of hemp extract products cultivated, processed, packaged, or  
42 sold by licensees; and

43 (f) hearing procedures and additional causes for cancellation, revoca-  
44 tion, and/or civil penalties against any person licensed, or permitted  
45 by the office.

46 3. The office, in consultation with the department of environmental  
47 conservation and the New York state energy research and development  
48 agency, shall promulgate necessary rules and regulations governing the  
49 safe production of hemp extract, including environmental and energy  
50 standards.

51 § 92. Cannabinoid related hemp extract licensing. 1. Persons growing,  
52 processing, extracting, and/or manufacturing hemp extract or producing  
53 hemp extract products distributed, sold or marketed for cannabinoid  
54 content and used or intended for human or animal consumption or use,  
55 shall be required to obtain the following license or licenses from the  
56 office, depending upon the operation:

- 1 (a) cannabinoid grower license;
- 2 (b) cannabinoid manufacturer license;
- 3 (c) cannabinoid extractor license.

4 2. Notwithstanding subdivision one of this section, those persons  
5 growing, processing or manufacturing food or food ingredients from  
6 industrial hemp pursuant to article twenty-nine of the agriculture and  
7 markets law which food or food ingredients are generally recognized as  
8 safe, shall be subject to regulation and/or licensing by the office.

9 § 93. Cannabinoid grower licenses. 1. A cannabinoid grower's license  
10 authorizes the acquisition, possession, cultivation and sale of hemp  
11 extract grown or used for its cannabinoid content on the licensed prem-  
12 ises of the grower.

13 2. A person holding a cannabinoid grower's license shall not sell hemp  
14 extract products marketed, distributed or sold for its cannabinoid  
15 content and intended for human consumption or use without also being  
16 licensed as a manufacturer or extractor pursuant to this article or  
17 otherwise permitted pursuant to section ninety-two of this article.

18 3. Persons growing industrial hemp pursuant to article twenty-nine of  
19 the agriculture and markets law are not authorized to and shall not sell  
20 hemp extract for human or animal consumption or use, other than as food  
21 or a food ingredient that has been generally recognized as safe in  
22 accordance with the office and determined by the state to be safe for  
23 human consumption as food or a food ingredient without also being  
24 licensed as a manufacturer or extractor pursuant to this article or  
25 otherwise permitted pursuant to section ninety-two of this article.

26 4. A person authorized under article twenty-nine of the agriculture  
27 and markets law as an industrial hemp grower may apply for a cannabinoid  
28 grower license provided he or she can demonstrate to the office that its  
29 cultivation of industrial hemp meets all the requirements for hemp  
30 extract cultivated under a cannabinoid grower license.

31 § 94. Cannabinoid manufacturer license. 1. A cannabinoid manufacturer  
32 license authorizes the licensee's acquisition, possession, and manufac-  
33 ture of hemp extract from a licensed cannabinoid grower or cannabinoid  
34 extractor for the processing of hemp extract or the production of hemp  
35 extract products marketed, distributed or sold for cannabinoid content  
36 and used or intended for human or animal consumption or use.

37 2. Notwithstanding subdivision one of this section, nothing shall  
38 prevent a cannabinoid manufacturer from manufacturing industrial hemp  
39 products not used or intended for human or animal consumption or use.

40 § 95. Cannabinoid extractor license. 1. A cannabinoid extractor  
41 license authorizes the licensee's acquisition, possession, extraction  
42 and manufacture of hemp extract from a licensed cannabinoid grower for  
43 the processing of hemp extract or the production of hemp extract  
44 products marketed, distributed or sold for cannabinoid content and used  
45 or intended for human or animal consumption or use.

46 2. No cannabinoid extractor licensee shall engage in any other busi-  
47 ness on the licensed premises; except that nothing contained in this  
48 article shall prevent a cannabinoid extractor licensee from also being  
49 licensed as a cannabinoid grower on the same premises.

50 3. Notwithstanding subdivisions one and two of this section, nothing  
51 shall prevent a cannabinoid extractor from manufacturing industrial hemp  
52 products not used or intended for human or animal consumption or use.

53 4. A person authorized under article twenty-nine of the agriculture  
54 and markets law as an industrial hemp processor shall qualify for a  
55 cannabinoid extractor license provided it can demonstrate to the office

1 that its extraction of industrial hemp meets all the requirements for  
2 hemp extract under a cannabinoid extractor license.

3 § 96. Cannabinoid license applications. 1. Persons shall apply for a  
4 cannabinoid grower license, cannabinoid manufacturer license and/or a  
5 cannabinoid extractor license by submitting an application upon a form  
6 supplied by the office, providing all the requested information, veri-  
7 fied by the applicant or an authorized representative of the applicant.

8 2. A separate license shall be required for each facility at which  
9 growing, manufacturing and/or extracting is conducted.

10 3. Each applicant shall remit with its application the fee for each  
11 office requested license.

12 § 97. Information to be requested in applications for licenses. 1. The  
13 office shall have the authority to prescribe the manner and form in  
14 which an application must be submitted to the office for licensure under  
15 this article.

16 2. The executive director is authorized to adopt regulations pursuant  
17 to the state administrative procedure act establishing information which  
18 must be included on an application for licensure under this article.  
19 Such information may include, but is not limited to: information about  
20 the applicant's identity, including racial and ethnic diversity; infor-  
21 mation about prior use of farmland; ownership and investment informa-  
22 tion, including the corporate structure; evidence of good moral charac-  
23 ter, including the submission of fingerprints by the applicant to the  
24 division of criminal justice services; information about the premises to  
25 be licensed; financial statements; and any other information prescribed  
26 in regulation.

27 3. All license applications shall be signed by the applicant (if an  
28 individual), by a managing partner (if a limited liability corporation),  
29 by an officer (if a corporation), or by all partners (if a partnership).  
30 Each person signing such application shall verify it as true under the  
31 penalties of perjury.

32 4. All license or permit applications shall be accompanied by a check,  
33 draft or other forms of payment as the office may require or authorize  
34 in the amount required by this article for such license or permit.

35 5. If there be any change, after the filing of the application or the  
36 granting of a license, in any of the facts required to be set forth in  
37 such application, a supplemental statement giving notice of such change,  
38 cost and source of money involved in the change, duly verified, shall be  
39 filed with the office within ten days after such change. Failure to do  
40 so shall, if willful and deliberate, be cause for revocation of the  
41 license.

42 6. In giving any notice, or taking any action in reference to a licen-  
43 see of a licensed premises, the office may rely upon the information  
44 furnished in such application and in any supplemental statement  
45 connected therewith, and such information may be presumed to be correct,  
46 and shall be binding upon a licensee or licensed premises as if correct.  
47 All information required to be furnished in such application or supple-  
48 mental statements shall be deemed material in any prosecution for perju-  
49 ry, any proceeding to revoke, cancel or suspend any license, and in the  
50 office's determination to approve or deny the license.

51 7. The office may, upon documentation therefor, waive the submission  
52 of any category of information described in this section for any catego-  
53 ry of license or permit, provided that it shall not be permitted to  
54 waive the requirement for submission of any such category of information  
55 solely for an individual applicant or applicants.

1 § 98. Fees. The office shall have the authority to charge licensees a  
2 biennial license fee. Such fee may be based on the amount of hemp  
3 extract to be grown, processed, manufactured or extracted by the licen-  
4 see, the gross annual receipts of the licensee for the previous license  
5 period, or any other factors deemed appropriate by the office.

6 § 99. Selection criteria. 1. An applicant shall furnish evidence:

7 (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol  
8 concentration that does not exceed a percentage of delta-9-tetrahydro-  
9 cannabinol cannabis set by the executive director on a dry weight basis  
10 of combined leaves and flowers of the plant of the genus cannabis, or  
11 per volume or weight of cannabis product;

12 (b) its ability to comply with all applicable state laws and regu-  
13 lations;

14 (c) that the applicant is ready, willing and able to properly carry on  
15 the activities for which a license is sought; and

16 (d) that the applicant is in possession of or has the right to use  
17 land, buildings and equipment sufficient to properly carry on the activ-  
18 ity described in the application.

19 2. The office, in considering whether to grant the license applica-  
20 tion, shall consider whether:

21 (a) it is in the public interest that such license be granted, taking  
22 into consideration whether the number of licenses will be adequate or  
23 excessive to reasonably serve demand;

24 (b) the applicant and its managing officers are of good moral charac-  
25 ter and do not have an ownership or controlling interest in more  
26 licenses or permits than allowed by this chapter;

27 (c) preference shall be given to applicants that are currently farming  
28 in the state and are eligible or currently receiving an agricultural  
29 assessment pursuant to article twenty-five-AA of the agriculture and  
30 markets law; and

31 (d) the applicant satisfies any other conditions as determined by the  
32 office.

33 3. If the executive director is not satisfied that the applicant  
34 should be issued a license, the executive director shall notify the  
35 applicant in writing of the specific reason or reasons for denial.

36 4. The executive director shall have authority and sole discretion to  
37 determine the number of licenses issued pursuant to this article.

38 § 100. Limitations of licensure; duration. 1. No license pursuant to  
39 this article may be issued to a person under the age of eighteen years.

40 2. The office shall have the authority to limit, by canopy, plant  
41 count or other means, the amount of hemp extract allowed to be culti-  
42 vated, processed, extracted or sold by a licensee.

43 3. All licenses under this article shall expire two years after the  
44 date of issue and be subject to any rules or limitations prescribed by  
45 the executive director in regulation.

46 § 101. License renewal. 1. Each license, issued pursuant to this arti-  
47 cle, may be renewed upon application therefor by the licensee and the  
48 payment of the fee for such license as prescribed by this article.

49 2. In the case of applications for renewals, the office may dispense  
50 with the requirements of such statements as it deems unnecessary in view  
51 of those contained in the application made for the original license, but  
52 in any event the submission of photographs of the licensed premises  
53 shall be dispensed with, provided the applicant for such renewal shall  
54 file a statement with the office to the effect that there has been no  
55 alteration of such premises since the original license was issued.

1 3. The office may make such rules as may be necessary, not inconsis-  
2 ent with this chapter, regarding applications for renewals of licenses  
3 and permits and the time for making the same.

4 4. The office shall provide an application for renewal of a license  
5 issued under this article not less than ninety days prior to the expira-  
6 tion of the current license.

7 5. The office may only issue a renewal license upon receipt of the  
8 prescribed renewal application and renewal fee from a licensee if, in  
9 addition to the criteria in section ninety-seven of this article, the  
10 licensee's license is not under suspension and has not been revoked.

11 6. The office shall have the authority to charge applicants for licen-  
12 sure under this article a non-refundable application fee. Such fee may  
13 be based on the type of licensure sought, cultivation and/or production  
14 volume, or any other factors deemed reasonable and appropriate by the  
15 office to achieve the policy and purpose of this chapter.

16 § 102. Form of license. Licenses issued pursuant to this article shall  
17 specify:

18 1. the name and address of the licensee;

19 2. the activities permitted by the license;

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

22 4. a unique license number issued by the department to the licensee;  
23 and

24 5. such other information as the executive director shall deem neces-  
25 sary to assure compliance with this chapter.

26 § 103. Amendments to license and duty to update information submitted  
27 for licensing. 1. Upon application of a licensee to the office, a  
28 license may be amended to allow the licensee to relocate within the  
29 state, to add or delete licensed activities or facilities, or to amend  
30 the ownership or organizational structure of the entity that is the  
31 licensee. The fee for such amendment shall be two hundred fifty dollars.  
32 2. In the event that any of the information provided by the applicant  
33 changes either while the application is pending or after the license is  
34 granted, within ten days of any such change, the applicant or licensee  
35 shall submit to the office a verified statement setting forth the change  
36 in circumstances of facts set forth in the application. Failure to do so  
37 shall, if willful and deliberate, be cause for revocation of the  
38 license.

39 3. A license shall become void by a change in ownership, substantial  
40 corporate change or location without prior written approval of the exec-  
41 utive director. The executive director may promulgate regulations  
42 allowing for certain types of changes in ownership without the need for  
43 prior written approval.

44 4. For purposes of this section, "substantial corporate change" shall  
45 mean:

46 (a) for a corporation, a change of eighty percent or more of the offi-  
47 cers and/or directors, or a transfer of eighty percent or more of stock  
48 of such corporation, or an existing stockholder obtaining eighty percent  
49 or more of the stock of such corporation; and

50 (b) for a limited liability company, a change of eighty percent or  
51 more of the managing members of the company, or a transfer of eighty  
52 percent or more of ownership interest in said company, or an existing  
53 member obtaining a cumulative of eighty percent or more of the ownership  
54 interest in said company.

55 § 104. Record keeping and tracking. 1. The executive director shall,  
56 by regulation, require each licensee pursuant to this article to adopt

1 and maintain security, tracking, record keeping, record retention and  
2 surveillance systems, relating to all hemp extract at every stage of  
3 acquiring, possession, manufacture, transport, sale, or delivery, or  
4 distribution by the licensee, subject to regulations of the executive  
5 director.

6 2. Every licensee shall keep and maintain upon the licensed premises,  
7 adequate books and records of all transactions involving the licensee  
8 and sale of its products, which shall include all information required  
9 by rules promulgated by the office.

10 3. Each sale shall be recorded separately on a numbered invoice, which  
11 shall have printed thereon the number, the name of the licensee, the  
12 address of the licensed premises, and the current license number.

13 4. Such books, records and invoices shall be kept for a period of five  
14 years and shall be available for inspection by any authorized represen-  
15 tative of the office.

16 § 105. Inspections and ongoing requirements. All licensees shall be  
17 subject to reasonable inspection by the office, in consultation with the  
18 department of health, and a person who holds a license must make himself  
19 or herself, or an agent thereof, available and present for any  
20 inspection required by the office. The office shall make reasonable  
21 accommodations so that ordinary business is not interrupted and safety  
22 and security procedures are not compromised by the inspection.

23 § 106. Packaging and labeling of hemp extract. 1. The office, in  
24 consultation with the department of health, is authorized to promulgate  
25 rules and regulations governing the packaging and labeling of hemp  
26 extract products, sold or possessed for sale in New York state.

27 2. Such regulations shall include, but not be limited to, requiring  
28 labels warning consumers of any potential impact on human health result-  
29 ing from the consumption of hemp extract products that shall be affixed  
30 to those products when sold, if such labels are deemed warranted by the  
31 office. No label may state that hemp extract can treat, cure or prevent  
32 any disease without approval pursuant to federal law.

33 3. Such rules and regulations shall establish a QR code which may be  
34 used in conjunction with similar technology for labels and establish  
35 methods and procedures for determining, among other things, serving  
36 sizes for hemp extract products, active cannabinoid concentration per  
37 serving size, number of servings per container, and the growing region,  
38 state or country of origin if not from the United States. Such regu-  
39 lations shall also require a supplement fact panel that incorporates  
40 data regarding serving sizes and potency thereof.

41 4. The packaging, sale, or possession by any licensee of any hemp  
42 product intended for human or animal consumption or use not labeled or  
43 offered in conformity with rules and regulations promulgated in accord-  
44 ance with this section shall be grounds for the imposition of a fine,  
45 and/or the suspension, revocation or cancellation of a license.

46 § 107. Provisions governing the growing, manufacturing and extracting  
47 of hemp extract. 1. No licensed cannabinoid grower, manufacturer or  
48 extractor shall sell, or agree to sell or deliver in the state any hemp  
49 extract products, as the case may be, except in sealed containers  
50 containing quantities in accordance with size standards pursuant to  
51 rules adopted by the office. Such containers shall have affixed thereto  
52 such labels as may be required by the rules of the office.

53 2. Licensed cannabinoid growers shall be prohibited from using pesti-  
54 cides.

55 3. All hemp extract products shall be extracted and manufactured in  
56 accordance with good manufacturing processes, pursuant to Part 111 or



1 117 of Title 21 of the Code of Federal Regulations as may be modified  
2 and decided upon by the executive director in regulation.

3 4. Within thirty days of the effective date of this article, the  
4 office shall approve the manufacture, distribution, and sale of beverag-  
5 es containing no more than twenty milligrams of cannabidiol per twelve  
6 ounce beverage. The hemp extract used in such beverages shall be grown,  
7 extracted and manufactured in the state of New York. The office shall  
8 issue guidance on the label, warning, point of sale, and advertising for  
9 such beverages.

10 5. Terpenes derived from the hemp plant are generally recognized as  
11 safe.

12 6. Those persons growing, processing or manufacturing food or food  
13 ingredients from hemp extracts, which food or food ingredients are  
14 generally recognized as safe, shall be subject to regulation and/or  
15 licensing under this article.

16 7. Notwithstanding any other provision of law to the contrary,  
17 prepackaged beverages that contain hemp or any part of the hemp plant,  
18 including the seeds and all naturally occurring cannabinoids, compounds,  
19 concentrates, extracts, isolates, terpenes, resins, isomers, acids,  
20 salts, salts of isomers or cannabidiol derivatives, are not considered  
21 to be adulterated or misbranded under this article based solely on the  
22 inclusion of hemp or any part of the hemp plant as long as the amount of  
23 cannabidiol is limited to twenty milligrams per serving. The office  
24 shall allow cannabidiol in food products and have the power to alter  
25 amounts in beverages on the basis of scientific evidence connected with  
26 health effects.

27 8. The nonpharmaceutical or nonmedical production, marketing, sale or  
28 distribution of beverages, food or food products within the state that  
29 contain hemp or any part of the hemp plant may not be restricted or  
30 prohibited within the state based solely on the inclusion of hemp or any  
31 part of the hemp plant.

32 9. A beverage and/or food producer may not make any claims that a  
33 beverage, food or food product that contains hemp can treat, cure or  
34 prevent any disease without approval pursuant to federal law.

35 § 108. Laboratory testing. 1. Every cannabinoid manufacturer and  
36 cannabinoid extractor shall contract with an independent laboratory to  
37 test the hemp extract products produced by the licensed manufacturer or  
38 extractor. The executive director, in consultation with the commissioner  
39 of health, shall approve the laboratory and require that the laboratory  
40 report testing results in a manner determined by the executive director.  
41 The executive director is authorized to issue regulations requiring the  
42 laboratory to perform certain tests and services.

43 2. Cannabinoid manufacturers and cannabinoid extractors shall make  
44 laboratory test reports available to persons holding a cannabinoid  
45 permit pursuant to section one hundred twelve of this article for all  
46 cannabis products manufactured by the licensee.

47 3. On-site laboratory testing by licensees is permissible; however,  
48 such testing shall not be certified by the office and does not exempt  
49 the licensee from the requirements of quality assurance testing at a  
50 testing laboratory pursuant to this section.

51 § 109. Advertising. The office shall promulgate rules and regulations  
52 governing the advertising of hemp extract and any other related products  
53 or services as determined by the executive director.

54 § 110. Research. 1. The office shall promote research and development  
55 through public-private partnerships to bring new hemp extract and indus-  
56 trial hemp derived products to market within the state.

1 2. The executive director may develop and carry out research programs  
2 which may include programs at the New York state college of agriculture  
3 and life sciences, pursuant to section fifty-seven hundred twelve of the  
4 education law and/or New York state university research institutions  
5 relating to industrial hemp and hemp extract.

6 § 111. Regulations. The executive director shall in consultation with  
7 the cannabis advisory board and the hemp workgroup promulgate regu-  
8 lations pursuant to the state administrative procedure act to implement  
9 this article.

10 § 112. Cannabinoid permit. The office is hereby authorized to issue  
11 cannabinoid permits to retailers, wholesalers, and distributors author-  
12 izing them to sell cannabis products derived from hemp extract. The  
13 executive director shall have the authority to set fees for such permit,  
14 to establish the period during which such permit is authorized, and to  
15 make rules and regulations, including emergency regulations, to imple-  
16 ment this section.

17 § 113. New York hemp product. The executive director may establish and  
18 adopt official grades and standards for hemp extract and hemp extract  
19 products as he or she may deem advisable, which are produced for sale in  
20 this state and, from time to time, may amend or modify such grades and  
21 standards.

22 § 114. Penalties and violations of this article. Notwithstanding the  
23 provision of any law to the contrary, the failure to comply with the  
24 requirements of this article, the rules and regulations promulgated  
25 thereunder, may be punishable by a fine of not more than one thousand  
26 dollars for a first violation; not more than five thousand dollars for a  
27 second violation; and not more than ten thousand dollars for a third  
28 violation and each subsequent violation thereafter.

29 § 115. Hemp workgroup. The executive director shall appoint a New York  
30 state industrial hemp and hemp extract workgroup, composed of research-  
31 ers, producers, processors, manufacturers and trade associations, to  
32 make recommendations for the industrial hemp and hemp extract programs,  
33 state and federal policies and policy initiatives, and opportunities for  
34 the promotion and marketing of industrial hemp and hemp extract as  
35 consistent with federal and state laws, rules and regulations, which  
36 workgroup shall continue for such time as the executive director deems  
37 appropriate.

38 § 116. Prohibitions. Except as authorized in this article, the manu-  
39 facturing of hemp extract for human or animal consumption and the  
40 distribution and/or sale thereof is prohibited in this state unless the  
41 manufacturer is licensed under this article. Hemp extract and products  
42 derived therefrom for human and animal consumption produced outside the  
43 state shall not be distributed or sold in this state unless they meet  
44 all standards and requirements established for such product manufactured  
45 in the state under this article and its rules and regulations as deter-  
46 mined by the office.

47 ARTICLE 6  
48 GENERAL PROVISIONS

49 Section 125. General prohibitions and restrictions.

50 126. License to be confined to premises licensed; premises for  
51 which no license shall be granted; transporting cannabis.

52 127. Protections for the use of cannabis; unlawful discrimi-  
53 nations prohibited.

54 128. Registrations and licenses.

1 129. Laboratory testing permits.  
2 130. Special use permits.  
3 131. Professional and medical record keeping.  
4 132. Local opt-out; municipal control and preemption.  
5 133. Personal cultivation.  
6 134. Executive director to be necessary party to certain  
7 proceedings.  
8 135. Penalties for violation of this chapter.  
9 136. Revocation of registrations, licenses and permits for  
10 cause; procedure for revocation or cancellation.  
11 137. Lawful actions pursuant to this chapter.  
12 138. Review by courts.  
13 139. Illicit cannabis.  
14 140. Persons forbidden to traffic cannabis; certain officials  
15 not to be interested in manufacture or sale of cannabis  
16 products.  
17 141. Access to criminal history information through the division  
18 of criminal justice services.  
19 142. Severability.  
20 § 125. General prohibitions and restrictions. 1. No person shall  
21 cultivate, process, or distribute for sale or sell at wholesale or  
22 retail any cannabis, cannabis product, medical cannabis or hemp extract  
23 product within the state without obtaining the appropriate registration,  
24 license, or permit therefor required by this chapter.  
25 2. No registered organization, licensee, or permittee shall sell, or  
26 agree to sell or deliver in this state any cannabis or hemp extract for  
27 the purposes of resale to any person who is not duly registered,  
28 licensed or permitted pursuant to this chapter to sell such product, at  
29 wholesale or retail, as the case may be, at the time of such agreement  
30 and sale.  
31 3. No registered organization, licensee, or permittee shall employ, or  
32 permit to be employed, or shall allow to work, on any premises regis-  
33 tered or licensed for retail sale hereunder, any person under the age of  
34 twenty-one years in any capacity where the duties of such person require  
35 or permit such person to sell, dispense or handle cannabis.  
36 4. No registered organization, licensee, or permittee shall sell,  
37 deliver or give away, or cause, permit or procure to be sold, delivered  
38 or given away any cannabis, cannabis product, or medical cannabis on  
39 credit; except that a registered organization, licensee or permittee may  
40 accept third party credit cards for the sale of any cannabis, cannabis  
41 product, or medical cannabis for which it is registered, licensed or  
42 permitted to dispense or sell to patients or cannabis consumers. This  
43 includes, but is not limited to, any consignment sale of any kind.  
44 5. No registered organization, licensee, or permittee shall cease to  
45 be operated as a bona fide or legitimate premises within the contem-  
46 plation of the registration, license, or permit issued for such prem-  
47 ises, as determined within the judgment of the office.  
48 6. No registered organization, licensee, or permittee shall refuse,  
49 nor any person holding a registration, license, or permit refuse, nor  
50 any officer or director of any corporation or organization holding a  
51 registration, license, or permit refuse, to appear and/or testify under  
52 oath at an inquiry or hearing held by the office, with respect to any  
53 matter bearing upon the registration, license, or permit, the conduct of  
54 any people at the licensed premises, or bearing upon the character or  
55 fitness of such registrant, licensee, or permittee to continue to hold

1 any registration, license, or permit. Nor shall any of the above offer  
2 false testimony under oath at such inquiry or hearing.

3 7. No registered organization, licensee, or permittee shall engage,  
4 participate in, or aid or abet any violation or provision of this chap-  
5 ter, or the rules or regulations of the office.

6 8. The proper conduct of registered, licensed, or permitted premises  
7 is essential to the public interest. Failure of a registered organiza-  
8 tion, licensee, or permittee to exercise adequate supervision over the  
9 registered, licensed, or permitted location poses a substantial risk not  
10 only to the objectives of this chapter but imperils the health, safety,  
11 and welfare of the people of this state. It shall be the obligation of  
12 each person registered, licensed, or permitted under this chapter to  
13 ensure that a high degree of supervision is exercised over any and all  
14 conduct at any registered, licensed, or permitted location at any and  
15 all times in order to safeguard against abuses of the privilege of being  
16 registered, licensed, or permitted, as well as other violations of law,  
17 statute, rule, or regulation. Persons registered, licensed, or permitted  
18 shall be held strictly accountable for any and all violations that occur  
19 upon any registered, licensed, or permitted premises, and for any and  
20 all violations committed by or permitted by any manager, agent or  
21 employee of such registered, licensed, or permitted person.

22 9. It shall be unlawful for any person, partnership or corporation  
23 operating a place for profit or pecuniary gain, with a capacity for the  
24 assemblage of twenty or more persons to permit a person or persons to  
25 come to the place of assembly for the purpose of cultivating, process-  
26 ing, distributing, or retail distribution or sale of cannabis on said  
27 premises. This includes, but is not limited, to, cannabis that is either  
28 provided by the operator of the place of assembly, his agents, servants  
29 or employees, or cannabis that is brought onto said premises by the  
30 person or persons assembling at such place, unless an appropriate regis-  
31 tration, license, or permit has first been obtained from the office of  
32 cannabis management by the operator of said place of assembly.

33 10. As it is a privilege under the law to be registered, licensed, or  
34 permitted to cultivate, process, distribute, or sell cannabis, the  
35 office may impose any such further restrictions upon any registrant,  
36 licensee, or permittee in particular instances as it deems necessary to  
37 further state policy and best serve the public interest. A violation or  
38 failure of any person registered, licensed, or permitted to comply with  
39 any condition, stipulation, or agreement, upon which any registration,  
40 license, or permit was issued or renewed by the office shall subject the  
41 registrant, licensee, or permittee to suspension, cancellation, revoca-  
42 tion, and/or civil penalties as determined by the office.

43 11. No adult-use cannabis or medical cannabis may be imported to, or  
44 exported out of, New York state by a registered organization, licensee  
45 or person holding a license and/or permit pursuant to this chapter,  
46 until such time as it may become legal to do so under federal law.  
47 Should it become legal to do so under federal law, the office is granted  
48 the power to promulgate such rules and regulations as it deems necessary  
49 to protect the public and the policy of the state.

50 12. No registered organization, licensee or any of its agents, serv-  
51 ants or employees shall sell any cannabis product, or medical cannabis  
52 from house to house by means of a truck or otherwise, where the sale is  
53 consummated and delivery made concurrently at the residence or place of  
54 business of a cannabis consumer. This subdivision shall not prohibit the  
55 delivery by a registered organization to certified patients or their  
56 designated caregivers, pursuant to article three of this chapter.

1 13. No licensee shall employ any canvasser or solicitor for the  
2 purpose of receiving an order from a certified patient, designated care-  
3 giver or cannabis consumer for any cannabis product, or medical cannabis  
4 at the residence or place of business of such patient, caregiver or  
5 consumer, nor shall any licensee receive or accept any order, for the  
6 sale of any cannabis product, or medical cannabis which shall be solic-  
7 ited at the residence or place of business of a patient, caregiver or  
8 consumer. This subdivision shall not prohibit the solicitation by a  
9 distributor of an order from any licensee at the licensed premises of  
10 such licensee.

11 § 126. License to be confined to premises licensed; premises for which  
12 no license shall be granted; transporting cannabis. 1. A registration,  
13 license, or permit issued to any person, pursuant to this chapter, for  
14 any registered, licensed, or permitted premises shall not be transfera-  
15 ble to any other person, to any other location or premises, or to any  
16 other building or part of the building containing the licensed premises  
17 except in the discretion of the office. All privileges granted by any  
18 registration, license, or permit shall be available only to the person  
19 therein specified, and only for the premises licensed and no other  
20 except if authorized by the office. Provided, however, that the  
21 provisions of this section shall not be deemed to prohibit the amendment  
22 of a registration or license as provided for in this chapter. A  
23 violation of this section shall subject the registration, license, or  
24 permit to revocation for cause.

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

30 3. In determining whether to issue such a proscription against grant-  
31 ing any registration, license, or permit for such five-year period, in  
32 addition to any other factors deemed relevant to the office, the office  
33 shall, in the case of a license revoked due to the illegal sale of  
34 cannabis to a minor, determine whether the proposed subsequent licensee  
35 has obtained such premises through an arm's length transaction, and, if  
36 such transaction is not found to be an arm's length transaction, the  
37 office shall deny the issuance of such license.

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

- 52 (a) a sale between relatives;  
53 (b) a sale between related companies or partners in a business; or  
54 (c) a sale, lease, management agreement, or other agreement giving the  
55 applicant control over the cannabis at the premises, affected by other  
56 facts or circumstances that would indicate that the sale, lease, manage-

1 ment agreement, or other agreement giving the applicant control over the  
2 cannabis at the premises, is entered into for the primary purpose of  
3 permitting the original licensee to avoid the effect of the revocation.

4 5. No registered organization, licensee or permittee shall transport  
5 cannabis products or medical cannabis except in vehicles owned and oper-  
6 ated by such registered organization, licensee or permittee, or hired  
7 and operated by such registered organization, licensee or permittee from  
8 a trucking or transportation company permitted and registered with the  
9 office.

10 6. No common carrier or person operating a transportation facility in  
11 this state, other than the United States government, shall receive for  
12 transportation or delivery within the state any cannabis products or  
13 medical cannabis unless the shipment is accompanied by copy of a bill of  
14 lading, or other document, showing the name and address of the consig-  
15 nor, the name and address of the consignee, the date of the shipment,  
16 and the quantity and kind of cannabis products or medical cannabis  
17 contained therein.

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

33 2. No school or landlord may refuse to enroll or lease to and may not  
34 otherwise penalize a person solely for conduct allowed under this chap-  
35 ter, except as exempted:

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

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

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

43 3. For the purposes of medical care, including organ transplants, a  
44 certified patient's authorized use of medical cannabis must be consid-  
45 ered the equivalent of the use of any other medication under the direc-  
46 tion of a practitioner and does not constitute the use of an illicit  
47 substance or otherwise disqualify a registered qualifying patient from  
48 medical care.

49 4. It is the public policy of the state of New York to prohibit  
50 employers from discriminating against employees for legal activities  
51 occurring outside of the workplace. Nothing in this section shall inter-  
52 fere with an employer's obligation to provide a safe and healthy work  
53 place, free from recognized hazards, as required by state and federal  
54 occupation safety and health law or require an employer to commit any  
55 act that would cause the employer to be in violation of any other feder-

1 al law, or that would result in the loss of a federal contract or feder-  
2 al funding.

3 5. For the purposes of this section, an employer may consider an  
4 employee's ability to perform the employee's job responsibilities to be  
5 impaired when the employee manifests specific articulable symptoms while  
6 working that decrease or lessen the employee's performance of the duties  
7 or tasks of the employee's job position.

8 6. Nothing in this section shall restrict an employer's ability to  
9 prohibit or take adverse employment action for the possession or use of  
10 intoxicating substances during work hours, or require an employer to  
11 commit any act that would cause the employer to be in violation of  
12 federal law, or that would result in the loss of a federal contract or  
13 federal funding.

14 7. As used in this section, "adverse employment action" means refusing  
15 to hire or employ, barring or discharging from employment, requiring a  
16 person to retire from employment, or discriminating against in compen-  
17 sation or in terms, conditions, or privileges of employment.

18 8. A person currently under parole, probation or other state super-  
19 vision, or released on bail awaiting trial may not be punished or other-  
20 wise penalized for conduct allowed under this chapter.

21 9. No person may be denied custody of or visitation or parenting time  
22 with a minor, and there is no presumption of neglect or child endanger-  
23 ment for conduct allowed under section 222.05 of the penal law, unless  
24 the person's behavior creates an unreasonable danger to the safety of  
25 the minor as established by clear and convincing evidence. For the  
26 purposes of this section, an "unreasonable danger" determination cannot  
27 be based solely on whether, when, and how often a person uses cannabis  
28 without separate evidence of harm.

29 § 128. Registrations and licenses. 1. No registration or license  
30 shall be transferable or assignable except that notwithstanding any  
31 other provision of law, the registration or license of a sole proprietor  
32 converting to corporate form, where such proprietor becomes the sole  
33 stockholder and only officer and director of such new corporation, may  
34 be transferred to the subject corporation if all requirements of this  
35 chapter remain the same with respect to such registration or license as  
36 transferred and, further, the registered organization or licensee shall  
37 transmit to the office, within ten days of the transfer of license  
38 allowable under this subdivision, on a form prescribed by the office,  
39 notification of the transfer of such license.

40 2. No registration or license shall be pledged or deposited as collat-  
41 eral security for any loan or upon any other condition; and any such  
42 pledge or deposit, and any contract providing therefor, shall be void.

43 3. Licenses issued under this chapter shall contain, in addition to  
44 any further information or material to be prescribed by the rules of the  
45 office, the following information:

- 46 (a) name of the person to whom the license is issued;
- 47 (b) type of license and what type of cannabis commerce is thereby  
48 permitted;
- 49 (c) description by street and number, or otherwise, of licensed prem-  
50 ises; and
- 51 (d) a statement in substance that such license shall not be deemed a  
52 property or vested right, and that it may be revoked at any time pursu-  
53 ant to law.

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

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

5 (a) the owners and directors of the laboratory are of good moral char-  
6 acter;

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

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

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

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

19 (f) the laboratory meets any and all requirements prescribed by this  
20 chapter and by the executive director in regulation.

21 3. The owner of a laboratory testing permit under this section shall  
22 not hold a registration or license in any category of this chapter and  
23 shall not have any direct or indirect ownership interest in such regis-  
24 tered organization or licensee. No board member, officer, manager,  
25 owner, partner, principal stakeholder or member of a registered organ-  
26 ization or licensee under this chapter, or such person's immediate fami-  
27 ly member, shall have an interest or voting rights in any laboratory  
28 testing permittee.

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

32 5. The executive director is authorized to promulgate regulations,  
33 requiring permitted laboratories to perform certain tests and services.

34 6. A laboratory granted a laboratory testing permit under this chapter  
35 shall not required to be licensed by the federal drug enforcement agen-  
36 cy.

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

44 1. Industrial cannabis permit - to purchase cannabis from one of the  
45 entities licensed by the office for use in the manufacture and sale of  
46 any of the following, when such cannabis is not otherwise suitable for  
47 consumption purposes, namely: (a) apparel, energy, paper, and tools;  
48 (b) scientific, chemical, mechanical and industrial products; or (c) any  
49 other industrial use as determined by the executive director in regu-  
50 lation.

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

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



1 4. Cannabinoid permit - to sell cannabinoid products for off-premises  
2 consumption.

3 5. Temporary retail cannabis permit - to authorize the retail sale of  
4 adult-use cannabis to cannabis consumers, for a limited purpose or dura-  
5 tion.

6 6. Caterer's permit - to authorize the service of cannabis products at  
7 a function, occasion or event in a hotel, restaurant, club, ballroom or  
8 other premises, which shall authorize within the hours fixed by the  
9 office, during which cannabis may lawfully be sold or served on the  
10 premises in which such function, occasion or event is held.

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

16 8. Miscellaneous permits - to purchase, receive or sell cannabis,  
17 cannabis products or medical cannabis, or receipts, certificates,  
18 contracts or other documents pertaining to cannabis, cannabis products,  
19 or medical cannabis, in cases not expressly provided for by this chap-  
20 ter, when in the judgment of the office it would be appropriate and  
21 consistent with the policy and purpose of this chapter.

22 § 131. Professional and medical record keeping. Any professional  
23 providing services in connection with a licensed or potentially licensed  
24 business under this chapter, or in connection with other conduct permit-  
25 ted under this chapter, and any medical professional providing medical  
26 care to a patient, other than a certified patient, may agree with their  
27 client or patient to maintain no record, or any reduced level of record  
28 keeping that professional and client or patient may agree. In case of  
29 such agreement, the professional's only obligation shall be to keep such  
30 records as agreed, and to keep a record of the agreement. Such reduced  
31 record keeping is conduct permitted under this chapter.

32 § 132. Local opt-out; municipal control and preemption. 1. The  
33 provisions of article four of this chapter, authorizing the cultivation,  
34 processing, distribution and sale of adult-use cannabis to cannabis  
35 consumers, shall not be applicable to a town, city or village which,  
36 after a mandatory referendum held pursuant to section twenty-three of  
37 the municipal home rule law, adopts a local law to prohibit the estab-  
38 lishment or operation of one or more types of licenses contained in  
39 article four of this chapter, within the jurisdiction of the town, city  
40 or village. Provided, however, that any town law shall apply to the area  
41 of the town outside of any village within such town.

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

52 § 133. Personal cultivation. 1. Notwithstanding any provision of law  
53 to the contrary, a person over the age of twenty-one shall be able to  
54 plant, cultivate, harvest, dry or process cannabis for personal use  
55 subject to the following restrictions:

1 (a) all cultivation and processing shall be done in accordance with  
2 local ordinances; and

3 (b) the living plants and any cannabis produced by the plants in  
4 excess of three ounces must be kept within the person's private resi-  
5 dence, or upon the grounds of that private residence (e.g., in an  
6 outdoor garden area), in a locked space, and not visible by normal  
7 unaided vision from a public place; and

8 (c) not more than six living plants may be planted, cultivated,  
9 harvested, dried or processed within a single private residence, or upon  
10 the grounds of that private residence, at one time.

11 2. A town, city or village may enact and enforce regulations to  
12 reasonably regulate the actions and conduct under this section. Regu-  
13 lations may not completely prohibit persons engaging in conduct made  
14 lawful under subdivision one of this section.

15 3. A violation of subdivision one of this section is a misdemeanor,  
16 punishable under section 222.10 of the penal law and subject to a local  
17 fine of not more than one hundred dollars.

18 § 134. Executive director to be necessary party to certain  
19 proceedings. The executive director shall be made a party to all  
20 actions and proceedings affecting in any manner the ability of a regis-  
21 tered organization or licensee to operate within a municipality, or the  
22 result of any vote thereupon; to all actions and proceedings relative to  
23 issuance or revocation of registrations, licenses or permits; to all  
24 injunction proceedings, and to all other civil actions or proceedings  
25 which in any manner affect the enjoyment of the privileges or the opera-  
26 tion of the restrictions provided for in this chapter.

27 § 135. Penalties for violation of this chapter. 1. Any person who  
28 cultivates for sale or sells cannabis, cannabis products, or medical  
29 cannabis without having an appropriate registration, license or permit  
30 therefor, or whose registration, license, or permit has been revoked,  
31 surrendered or cancelled, shall be subject to conviction as provided by  
32 article two hundred twenty-two of the penal law.

33 2. Any registered organization or licensee, whose registration or  
34 license has been suspended pursuant to the provisions of this chapter,  
35 who sells cannabis, cannabis products, medical cannabis or hemp extract  
36 during the suspension period, shall be subject to conviction as provided  
37 by article two hundred twenty-two of the penal law, and upon conviction  
38 thereof shall be punished by a fine of not more than five thousand  
39 dollars per instance.

40 3. Any person who shall make any false statement in the application  
41 for a registration, license or a permit under this chapter shall be  
42 subject to a fine of not more than five thousand dollars.

43 4. Any violation by any person of any provision of this chapter for  
44 which no punishment or penalty is otherwise provided shall be a misde-  
45 meanor.

46 5. Any person under the age of twenty-one found to be in possession of  
47 cannabis or cannabis products that is not a patient registered pursuant  
48 to article three of this chapter shall be in violation of this chapter  
49 and shall be subject to the following penalty:

50 (a) (i) The person shall be subject to a fine of not more than twen-  
51 ty-five dollars. The fine shall be payable to the office of cannabis  
52 management.

53 (ii) Any identifying information provided by the enforcement agency  
54 for the purpose of facilitating payment of the fine shall not be shared  
55 or disclosed under any circumstances with any other agency or law  
56 enforcement division.

1 (b) The person shall, upon payment of the required fine, be provided  
2 with information related to the dangers of underage use of cannabis and  
3 information related to cannabis use disorder by the office of cannabis  
4 management.

5 (c) The issuance and subsequent payment of such fine shall in no way  
6 qualify as a criminal accusation, admission of guilt, or a criminal  
7 conviction and shall in no way operate as a disqualification of any such  
8 person from holding public office, attaining public employment, or as a  
9 forfeiture of any right or privilege.

10 6. Cannabis recovered from individuals who are found to be in  
11 violation of this chapter shall be considered a nuisance and shall be  
12 disposed of or destroyed.

13 § 136. Revocation of registrations, licenses and permits for cause;  
14 procedure for revocation or cancellation. 1. Any registration, license  
15 or permit issued pursuant to this chapter may be revoked, cancelled,  
16 suspended and/or subjected to the imposition of a civil penalty for  
17 cause, and must be revoked for the following causes:

18 (a) conviction of the registered organization, licensee, permittee or  
19 his or her agent or employee for selling any illegal cannabis on the  
20 premises registered, licensed or permitted; or

21 (b) for transferring, assigning or hypothecating a registration,  
22 license or permit without prior written approval of the office.

23 2. Notwithstanding the issuance of a registration, license or permit  
24 by way of renewal, the office may revoke, cancel or suspend such regis-  
25 tration, license or permit and/or may impose a civil penalty against any  
26 holder of such registration, license or permit, as prescribed by this  
27 section, for causes or violations occurring during the license period  
28 immediately preceding the issuance of such registration, license or  
29 permit.

30 3. (a) As used in this section, the term "for cause" shall also  
31 include the existence of a sustained and continuing pattern of miscon-  
32 duct, failure to adequately prevent diversion or disorder on or about  
33 the registered, licensed or permitted premises, or in the area in front  
34 of or adjacent to the registered or licensed premises, or in any parking  
35 lot provided by the registered organization or licensee for use by  
36 registered organization or licensee's patrons, which, in the judgment of  
37 the office, adversely affects or tends to affect the protection, health,  
38 welfare, safety, or repose of the inhabitants of the area in which the  
39 registered or licensed premises is located, or results in the licensed  
40 premises becoming a focal point for police attention, or is offensive to  
41 public decency.

42 (b) (i) As used in this section, the term "for cause" shall also  
43 include deliberately misleading the authority:

44 (A) as to the nature and character of the business to be operated by  
45 the registered organization, licensee or permittee; or

46 (B) by substantially altering the nature or character of such business  
47 during the registration or licensing period without seeking appropriate  
48 approvals from the office.

49 (ii) As used in this subdivision, the term "substantially altering the  
50 nature or character" of such business shall mean any significant alter-  
51 ation in the scope of business activities conducted by a registered  
52 organization, licensee or permittee that would require obtaining an  
53 alternate form of registration, license or permit.

54 4. As used in this chapter, the existence of a sustained and continu-  
55 ing pattern of misconduct, failure to adequately prevent diversion or  
56 disorder on or about the premises may be presumed upon the sixth inci-

1 dent reported to the office by a law enforcement agency, or discovered  
2 by the office during the course of any investigation, of misconduct,  
3 diversion or disorder on or about the premises or related to the opera-  
4 tion of the premises, absent clear and convincing evidence of either  
5 fraudulent intent on the part of any complainant or a factual error with  
6 respect to the content of any report concerning such complaint relied  
7 upon by the office.

8 5. Notwithstanding any other provision of this chapter to the contra-  
9 ry, a suspension imposed under this section against the holder of a  
10 registration issued pursuant to article three of this chapter, shall  
11 only suspend the licensed activities related to the type of cannabis,  
12 medical cannabis or adult-use cannabis involved in the violation result-  
13 ing in the suspension.

14 6. Any registration, license or permit issued by the office pursuant  
15 to this chapter may be revoked, cancelled or suspended and/or be  
16 subjected to the imposition of a monetary penalty in the manner  
17 prescribed by this section and by the executive director in regulation.

18 7. The office may on its own initiative, or on complaint of any  
19 person, institute proceedings to revoke, cancel or suspend any adult-use  
20 cannabis retail dispensary license or adult-use cannabis on-site  
21 consumption license and may impose a civil penalty against the licensee  
22 after a hearing at which the licensee shall be given an opportunity to  
23 be heard. Such hearing shall be held in such manner and upon such notice  
24 as may be prescribed in regulation by the executive director.

25 8. All other registrations, licenses or permits issued under this  
26 chapter may be revoked, cancelled, suspended and/or made subject to the  
27 imposition of a civil penalty by the office after a hearing to be held  
28 in such manner and upon such notice as may be prescribed in regulation  
29 by the executive director.

30 9. Where a licensee or permittee is convicted of two or more qualify-  
31 ing offenses within a five-year period, the office, upon receipt of  
32 notification of such second or subsequent conviction, shall, in addition  
33 to any other sanction or civil or criminal penalty imposed pursuant to  
34 this chapter, impose on such licensee a civil penalty not to exceed ten  
35 thousand dollars. For purposes of this subdivision, a qualifying  
36 offense shall mean the unlawful sale of cannabis to a person under the  
37 age of twenty-one. For purposes of this subdivision, a conviction of a  
38 licensee or an employee or agent of such licensee shall constitute a  
39 conviction of such licensee.

40 § 137. Lawful actions pursuant to this chapter. 1. Contracts related  
41 to the operation of registered organizations, licenses and permits under  
42 this chapter shall be lawful and shall not be deemed unenforceable on  
43 the basis that the actions permitted pursuant to the registration,  
44 license or permit are prohibited by federal law.

45 2. The following actions are not unlawful as provided under this chap-  
46 ter, shall not be an offense under any state or local law, and shall not  
47 result in any civil fine, seizure, or forfeiture of assets, or be the  
48 basis for detention or search against any person acting in accordance  
49 with this chapter:

50 (a) Actions of a registered organization, licensee, or permittee, or  
51 the employees or agents of such registered organization, licensee or  
52 permittee, as permitted by this chapter and consistent with rules and  
53 regulations of the office, pursuant to a valid registration, license or  
54 permit issued by the office.

55 (b) Actions of those who allow property to be used by a registered  
56 organization, licensee, or permittee, or the employees or agents of such

1 registered organization, licensee or permittee, as permitted by this  
2 chapter and consistent with rules and regulations of the office, pursu-  
3 ant to a valid registration, license or permit issued by the office.

4 (c) Actions of any person or entity, their employees, or their agents  
5 providing a service to a registered organization, licensee, permittee or  
6 a potential registered organization, licensee, or permittee, as permit-  
7 ted by this chapter and consistent with rules and regulations of the  
8 office, relating to the formation of a business.

9 (d) The purchase, possession, or consumption of cannabis, and medical  
10 cannabis, as permitted by law, and consistent with rules and regulations  
11 of the office.

12 § 138. Review by courts. 1. The following actions by the office, and  
13 only the following actions by the office, shall be subject to review by  
14 the supreme court in the manner provided in article seventy-eight of the  
15 civil practice law and rules:

16 (a) Refusal by the office to issue a registration, license, or a  
17 permit.

18 (b) The revocation, cancellation or suspension of a registration,  
19 license, or permit by the office.

20 (c) The failure or refusal by the office to render a decision upon any  
21 application or hearing submitted to or held by the office within sixty  
22 days after such submission or hearing.

23 (d) The transfer by the office of a registration, license, or permit  
24 to any other entity or premises, or the failure or refusal by the office  
25 to approve such a transfer.

26 (e) Refusal to approve alteration of premises.

27 (f) Refusal to approve a corporate change in stockholders, stockhold-  
28 ings, officers or directors.

29 2. No stay shall be granted pending the determination of such matter  
30 except on notice to the office and only for a period of less than thirty  
31 days. In no instance shall a stay be granted where the office has issued  
32 a summary suspension of a registration, license, or permit for the  
33 protection of the public health, safety, and welfare.

34 § 139. Illicit cannabis. 1. "Illicit cannabis" means and includes any  
35 cannabis product, or medical cannabis owned, cultivated, distributed,  
36 bought, sold, packaged, rectified, blended, treated, fortified, mixed,  
37 processed, warehoused, possessed or transported, or on which any tax  
38 required to have been paid under any applicable state law has not been  
39 paid.

40 2. Any person who shall knowingly possess or have under his or her  
41 control any cannabis known by the person to be illicit cannabis is guilty  
42 of a misdemeanor.

43 3. Any person who shall knowingly barter or exchange with, or sell,  
44 give or offer to sell or to give another any cannabis known by the  
45 person to be illicit cannabis is guilty of a misdemeanor.

46 4. Any person who shall possess or have under his or her control or  
47 transport any cannabis known by the person to be illicit cannabis with  
48 intent to barter or exchange with, or to sell or give to another the  
49 same or any part thereof is guilty of a misdemeanor. Such intent is  
50 presumptively established by proof that the person knowingly possessed  
51 or had under his or her control one or more ounces of illicit cannabis.  
52 This presumption may be rebutted.

53 5. Any person who, being the owner, lessee, or occupant of any room,  
54 shed, tenement, booth or building, float or vessel, or part thereof,  
55 knowingly permits the same to be used for the cultivation, processing,

1 distribution, purchase, sale, warehousing, transportation, or storage of  
2 any illicit cannabis, is guilty of a misdemeanor.

3 § 140. Persons forbidden to traffic cannabis; certain officials not to  
4 be interested in manufacture or sale of cannabis products. 1. The  
5 following are forbidden to traffic in cannabis:

6 (a) An individual who has been convicted of an offense related to the  
7 functions or duties of owning and operating a business within three  
8 years of the application date, except that if the office determines that  
9 the owner or licensee is otherwise suitable to be issued a license, and  
10 granting the license would not compromise public safety, the office  
11 shall conduct a thorough review of the nature of the crime, conviction,  
12 circumstances and evidence of rehabilitation of the owner, and shall  
13 evaluate the suitability of the owner or licensee to be issued a license  
14 based on the evidence found through the review. In determining which  
15 offenses are substantially related to the functions or duties of owning  
16 and operating a business, the office shall include, but not be limited  
17 to, the following:

18 (i) a felony conviction involving fraud, money laundering, forgery and  
19 other unlawful conduct related to owning and operating a business; and

20 (ii) a felony conviction for hiring, employing, or using a minor in  
21 transporting, carrying, selling, giving away, preparing for sale, or  
22 peddling, any controlled substance to a minor; or selling, offering to  
23 sell, furnishing, offering to furnish, administering, or giving any  
24 controlled substance to a minor.

25 (b) A person under the age of twenty-one years;

26 (c) A person who is not a citizen of the United States or an alien  
27 lawfully admitted for permanent residence in the United States;

28 (d) A partnership or a corporation, unless each member of the partner-  
29 ship, or each of the principal officers and directors of the corpo-  
30 ration, is a citizen of the United States or an alien lawfully admitted  
31 for permanent residence in the United States, not less than twenty-one  
32 years of age; provided however that a corporation which otherwise  
33 conforms to the requirements of this section and chapter may be licensed  
34 if each of its principal officers and more than one-half of its direc-  
35 tors are citizens of the United States or aliens lawfully admitted for  
36 permanent residence in the United States; and provided further that a  
37 corporation organized under the not-for-profit corporation law or the  
38 education law which otherwise conforms to the requirements of this  
39 section and chapter may be licensed if each of its principal officers  
40 and directors are not less than twenty-one years of age; and provided,  
41 further, that a corporation organized under the not-for-profit corpo-  
42 ration law or the education law and located on the premises of a college  
43 as defined by section two of the education law which otherwise conforms  
44 to the requirements of this section and chapter may be licensed if each  
45 of its principal officers and each of its directors are not less than  
46 twenty-one years of age;

47 (e) A person who shall have had any registration or license issued  
48 under this chapter revoked for cause, until the expiration of two years  
49 from the date of such revocation;

50 (f) A person not registered or licensed under the provisions of this  
51 chapter, who has been convicted of a violation of this chapter, until  
52 the expiration of two years from the date of such conviction; or

53 (g) A corporation or partnership, if any officer and director or any  
54 partner, while not licensed under the provisions of this chapter, has  
55 been convicted of a violation of this chapter, or has had a registration

1 or license issued under this chapter revoked for cause, until the expi-  
2 ration of two years from the date of such conviction or revocation.

3 2. Except as may otherwise be provided for in regulation, it shall be  
4 unlawful for any police commissioner, police inspector, captain,  
5 sergeant, roundsman, patrolman or other police official or subordinate  
6 of any police department in the state, to be either directly or indi-  
7 rectly interested in the cultivation, processing, distribution, or sale  
8 of cannabis products or to offer for sale, or recommend to any regis-  
9 tered organization or licensee any cannabis products. A person may not  
10 be denied any registration or license granted under the provisions of  
11 this chapter solely on the grounds of being the spouse of a public serv-  
12 ant described in this section. The solicitation or recommendation made  
13 to any registered organization or licensee, to purchase any cannabis  
14 products by any police official or subordinate as hereinabove described,  
15 shall be presumptive evidence of the interest of such official or subor-  
16 dinate in the cultivation, processing, distribution, or sale of cannabis  
17 products.

18 3. No elective village officer shall be subject to the limitations set  
19 forth in subdivision two of this section unless such elective village  
20 officer shall be assigned duties directly relating to the operation or  
21 management of the police department.

22 § 141. Access to criminal history information through the division of  
23 criminal justice services. In connection with the administration of  
24 this chapter, the executive director is authorized to request, receive  
25 and review criminal history information through the division of criminal  
26 justice services with respect to any person seeking a registration,  
27 license, permit or authorization to cultivate, process, distribute or  
28 sell medical cannabis, adult use cannabis or hemp extract. At the execu-  
29 tive director's request, each person, member, principal and/or officer  
30 of the applicant shall submit to the office his or her fingerprints in  
31 such form and in such manner as specified by the division, for the  
32 purpose of conducting a criminal history search and returning a report  
33 thereon in accordance with the procedures and requirements established  
34 by the division pursuant to the provisions of article thirty-five of the  
35 executive law, which shall include the payment of the prescribed proc-  
36 essing fees for the cost of the division's full search and retain proce-  
37 dures and a national criminal history record check. The executive direc-  
38 tor, or his or her designee, shall submit such fingerprints and the  
39 processing fee to the division. The division shall forward to the execu-  
40 tive director a report with respect to the applicant's previous criminal  
41 history, if any, or a statement that the applicant has no previous crim-  
42 inal history according to its files. Fingerprints submitted to the divi-  
43 sion pursuant to this subdivision may also be submitted to the federal  
44 bureau of investigation for a national criminal history record check. If  
45 additional copies of fingerprints are required, the applicant shall  
46 furnish them upon request.

47 § 142. Severability. If any provision of this chapter or application  
48 thereof to any person or circumstances is held invalid, such invalidity  
49 shall not affect other provisions or applications of this chapter that  
50 can be given effect without the invalid provision or application, and to  
51 this end the provisions of this chapter are declared severable.

52 § 3. Section 3302 of the public health law, as added by chapter 878 of  
53 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and  
54 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,  
55 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,  
56 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39

1 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of  
2 subdivision 20, the opening paragraph of subdivision 22 and subdivision  
3 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as  
4 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-  
5 vision 41 as added by section 6 of part A of chapter 447 of the laws of  
6 2012, and subdivisions 42 and 43 as added by section 13 of part D of  
7 chapter 60 of the laws of 2014, is amended to read as follows:

8 § 3302. Definitions of terms of general use in this article. Except  
9 where different meanings are expressly specified in subsequent  
10 provisions of this article, the following terms have the following mean-  
11 ings:

12 1. "Addict" means a person who habitually uses a controlled substance  
13 for a non-legitimate or unlawful use, and who by reason of such use is  
14 dependent thereon.

15 2. "Administer" means the direct application of a controlled  
16 substance, whether by injection, inhalation, ingestion, or any other  
17 means, to the body of a patient or research subject.

18 3. "Agent" means an authorized person who acts on behalf of or at the  
19 direction of a manufacturer, distributor, or dispenser. No person may be  
20 authorized to so act if under title VIII of the education law such  
21 person would not be permitted to engage in such conduct. It does not  
22 include a common or contract carrier, public warehouseman, or employee  
23 of the carrier or warehouseman when acting in the usual and lawful  
24 course of the carrier's or warehouseman's business.

25 4. [~~"Concentrated Cannabis" means~~  
26 ~~(a) the separated resin, whether crude or purified, obtained from a~~  
27 ~~plant of the genus Cannabis; or~~  
28 ~~(b) a material, preparation, mixture, compound or other substance~~  
29 ~~which contains more than two and one-half percent by weight of delta-9~~  
30 ~~tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering~~  
31 ~~system, or delta-1 tetrahydrocannabinol or its isomer, delta-1 (6) mono-~~  
32 ~~terpene numbering system.~~

33 ~~5.] "Controlled substance" means a substance or substances listed in  
34 section thirty-three hundred six of this [~~chapter~~] title.~~

35 [~~6.]~~ 5. "Commissioner" means commissioner of health of the state of  
36 New York.

37 [~~7.]~~ 6. "Deliver" or "delivery" means the actual, constructive or  
38 attempted transfer from one person to another of a controlled substance,  
39 whether or not there is an agency relationship.

40 [~~8.]~~ 7. "Department" means the department of health of the state of  
41 New York.

42 [~~9.]~~ 8. "Dispense" means to deliver a controlled substance to an ulti-  
43 mate user or research subject by lawful means, including by means of the  
44 internet, and includes the packaging, labeling, or compounding necessary  
45 to prepare the substance for such delivery.

46 [~~10.]~~ 9. "Distribute" means to deliver a controlled substance, includ-  
47 ing by means of the internet, other than by administering or dispensing.

48 [~~11.]~~ 10. "Distributor" means a person who distributes a controlled  
49 substance.

50 [~~12.]~~ 11. "Diversion" means manufacture, possession, delivery or use  
51 of a controlled substance by a person or in a manner not specifically  
52 authorized by law.

53 [~~13.]~~ 12. "Drug" means

54 (a) substances recognized as drugs in the official United States Phar-  
55 macopoeia, official Homeopathic Pharmacopoeia of the United States, or  
56 official National Formulary, or any supplement to any of them;



1 (b) substances intended for use in the diagnosis, cure, mitigation,  
2 treatment, or prevention of disease in man or animals; and

3 (c) substances (other than food) intended to affect the structure or a  
4 function of the body of man or animal. It does not include devices or  
5 their components, parts, or accessories.

6 ~~[14.]~~ 13. "Federal agency" means the Drug Enforcement Administration,  
7 United States Department of Justice, or its successor agency.

8 ~~[15.]~~ 14. "Federal controlled substances act" means the Comprehensive  
9 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and  
10 any act or acts amendatory or supplemental thereto or regulations  
11 promulgated thereunder.

12 ~~[16.]~~ 15. "Federal registration number" means such number assigned by  
13 the Federal agency to any person authorized to manufacture, distribute,  
14 sell, dispense or administer controlled substances.

15 ~~[17.]~~ 16. "Habitual user" means any person who is, or by reason of  
16 repeated use of any controlled substance for non-legitimate or unlawful  
17 use is in danger of becoming, dependent upon such substance.

18 ~~[18.]~~ 17. "Institutional dispenser" means a hospital, veterinary  
19 hospital, clinic, dispensary, maternity home, nursing home, mental  
20 hospital or similar facility approved and certified by the department as  
21 authorized to obtain controlled substances by distribution and to  
22 dispense and administer such substances pursuant to the order of a prac-  
23 titioner.

24 ~~[19.]~~ 18. "License" means a written authorization issued by the  
25 department or the New York state department of education permitting  
26 persons to engage in a specified activity with respect to controlled  
27 substances.

28 ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-  
29 gation, compounding, cultivation, conversion or processing of a  
30 controlled substance, either directly or indirectly or by extraction  
31 from substances of natural origin, or independently by means of chemical  
32 synthesis, or by a combination of extraction and chemical synthesis, and  
33 includes any packaging or repackaging of the substance or labeling or  
34 relabeling of its container, except that this term does not include the  
35 preparation, compounding, packaging or labeling of a controlled  
36 substance:

37 (a) by a practitioner as an incident to his administering or dispens-  
38 ing of a controlled substance in the course of his professional prac-  
39 tice; or

40 (b) by a practitioner, or by his authorized agent under his super-  
41 vision, for the purpose of, or as an incident to, research, teaching, or  
42 chemical analysis and not for sale; or

43 (c) by a pharmacist as an incident to his dispensing of a controlled  
44 substance in the course of his professional practice.

45 ~~[21. "Marihuana" means all parts of the plant of the genus Cannabis,  
46 whether growing or not; the seeds thereof; the resin extracted from any  
47 part of the plant; and every compound, manufacture, salt, derivative,  
48 mixture, or preparation of the plant, its seeds or resin. It does not  
49 include the mature stalks of the plant, fiber produced from the stalks,  
50 oil or cake made from the seeds of the plant, any other compound, manu-  
51 facture, salt, derivative, mixture, or preparation of the mature stalks  
52 (except the resin extracted therefrom), fiber, oil, or cake, or the  
53 sterilized seed of the plant which is incapable of germination.~~

54 ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced  
55 directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a combi-  
2 nation of extraction and chemical synthesis:

3 (a) opium and opiate, and any salt, compound, derivative, or prepara-  
4 tion of opium or opiate;

5 (b) any salt, compound, isomer, derivative, or preparation thereof  
6 which is chemically equivalent or identical with any of the substances  
7 referred to in [~~subdivision~~] paragraph (a) of this subdivision, but not  
8 including the isoquinoline alkaloids of opium;

9 (c) opium poppy and poppy straw.

10 [~~23-~~] 21. "Opiate" means any substance having an addiction-forming or  
11 addiction-sustaining liability similar to morphine or being capable of  
12 conversion into a drug having addiction-forming or addiction-sustaining  
13 liability. It does not include, unless specifically designated as  
14 controlled under section [~~3306~~] thirty-three hundred six of this [~~arti-~~  
15 ~~cle~~] title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and  
16 its salts (dextromethorphan). It does include its racemic and levorota-  
17 tory forms.

18 [~~24-~~] 22. "Opium poppy" means the plant of the species *Papaver*  
19 *somniferum* L., except its seeds.

20 [~~25-~~] 23. "Person" means individual, institution, corporation, govern-  
21 ment or governmental subdivision or agency, business trust, estate,  
22 trust, partnership or association, or any other legal entity.

23 [~~26-~~] 24. "Pharmacist" means any person licensed by the state depart-  
24 ment of education to practice pharmacy.

25 [~~27-~~] 25. "Pharmacy" means any place registered as such by the New  
26 York state board of pharmacy and registered with the Federal agency  
27 pursuant to the federal controlled substances act.

28 [~~28-~~] 26. "Poppy straw" means all parts, except the seeds, of the  
29 opium poppy, after mowing.

30 [~~29-~~] 27. "Practitioner" means:

31 A physician, dentist, podiatrist, veterinarian, scientific investi-  
32 gator, or other person licensed, or otherwise permitted to dispense,  
33 administer or conduct research with respect to a controlled substance in  
34 the course of a licensed professional practice or research licensed  
35 pursuant to this article. Such person shall be deemed a "practitioner"  
36 only as to such substances, or conduct relating to such substances, as  
37 is permitted by his license, permit or otherwise permitted by law.

38 [~~30-~~] 28. "Prescribe" means a direction or authorization, by  
39 prescription, permitting an ultimate user lawfully to obtain controlled  
40 substances from any person authorized by law to dispense such  
41 substances.

42 [~~31-~~] 29. "Prescription" shall mean an official New York state  
43 prescription, an electronic prescription, an oral prescription[~~;~~] or an  
44 out-of-state prescription[~~;~~ ~~or any one~~].

45 [~~32-~~] 30. "Sell" means to sell, exchange, give or dispose of to anothe-  
46 er, or offer or agree to do the same.

47 [~~33-~~] 31. "Ultimate user" means a person who lawfully obtains and  
48 possesses a controlled substance for his own use or the use by a member  
49 of his household or for an animal owned by him or in his custody. It  
50 shall also mean and include a person designated, by a practitioner on a  
51 prescription, to obtain such substance on behalf of the patient for whom  
52 such substance is intended.

53 [~~34-~~] 32. "Internet" means collectively computer and telecommuni-  
54 cations facilities which comprise the worldwide network of networks that  
55 employ a set of industry standards and protocols, or any predecessor or  
56 successor protocol to such protocol, to exchange information of all

1 kinds. "Internet," as used in this article, also includes other  
2 networks, whether private or public, used to transmit information by  
3 electronic means.

4 ~~[35-]~~ 33. "By means of the internet" means any sale, delivery,  
5 distribution, or dispensing of a controlled substance that uses the  
6 internet, is initiated by use of the internet or causes the internet to  
7 be used.

8 ~~[36-]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person  
9 in the United States that sells, delivers or dispenses, or offers to  
10 sell, deliver, or dispense, a controlled substance by means of the  
11 internet.

12 ~~[37-]~~ 35. "Electronic prescription" means a prescription issued with  
13 an electronic signature and transmitted by electronic means in accord-  
14 ance with regulations of the commissioner and the commissioner of educa-  
15 tion and consistent with federal requirements. A prescription generated  
16 on an electronic system that is printed out or transmitted via facsimile  
17 is not considered an electronic prescription and must be manually  
18 signed.

19 ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-  
20 trical, digital, magnetic, wireless, optical, electromagnetic or similar  
21 capabilities. "Electronic" shall not include facsimile.

22 ~~[39-]~~ 37. "Electronic record" means a paperless record that is  
23 created, generated, transmitted, communicated, received or stored by  
24 means of electronic equipment and includes the preservation, retrieval,  
25 use and disposition in accordance with regulations of the commissioner  
26 and the commissioner of education and in compliance with federal law and  
27 regulations.

28 ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or  
29 process, attached to or logically associated with an electronic record  
30 and executed or adopted by a person with the intent to sign the record,  
31 in accordance with regulations of the commissioner and the commissioner  
32 of education.

33 ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"  
34 means the prescription monitoring program registry established pursuant  
35 to section thirty-three hundred forty-three-a of this article.

36 ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-  
37 ing, pooling, reconstituting, or otherwise altering of a drug or bulk  
38 drug substance to create a drug with respect to an outsourcing facility  
39 under section 503B of the federal Food, Drug and Cosmetic Act and  
40 further defined in this section.

41 ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

42 (a) is engaged in the compounding of sterile drugs as defined in  
43 section sixty-eight hundred two of the education law;

44 (b) is currently registered as an outsourcing facility pursuant to  
45 article one hundred thirty-seven of the education law; and

46 (c) complies with all applicable requirements of federal and state  
47 law, including the Federal Food, Drug and Cosmetic Act.

48 Notwithstanding any other provision of law to the contrary, when an  
49 outsourcing facility distributes or dispenses any drug to any person  
50 pursuant to a prescription, such outsourcing facility shall be deemed to  
51 be providing pharmacy services and shall be subject to all laws, rules  
52 and regulations governing pharmacies and pharmacy services.

53 § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,  
54 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of  
55 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,  
56 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of

1 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of  
2 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the  
3 laws of 2006, are amended to read as follows:

4 (13) [~~Marihuana-~~  
5 ~~(14)~~] Mescaline.

6 [~~(15)~~] (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-  
7 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

8 [~~(16)~~] (15) Peyote. Meaning all parts of the plant presently classi-  
9 fied botanically as *Lophophora williamsii* Lemaire, whether growing or  
10 not, the seeds thereof, any extract from any part of such plant, and  
11 every compound, manufacture, salts, derivative, mixture, or preparation  
12 of such plant, its seeds or extracts.

13 [~~(17)~~] (16) N-ethyl-3-piperidyl benzilate.

14 [~~(18)~~] (17) N-methyl-3-piperidyl benzilate.

15 [~~(19)~~] (18) Psilocybin.

16 [~~(20)~~] (19) Psilocyn.

17 [~~(21)~~] (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not  
18 derived from the cannabis plant that are equivalents of the substances  
19 contained in the plant, or in the resinous extractives of cannabis, sp.  
20 and/or synthetic substances, derivatives, and their isomers with similar  
21 chemical structure and pharmacological activity such as the following:

22 [~~(A)~~] delta 1 cis or trans tetrahydrocannabinol, and their optical  
23 isomers

24 [~~(A)~~] delta 6 cis or trans tetrahydrocannabinol, and their optical  
25 isomers

26 [~~(A)~~] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical  
27 isomers (since nomenclature of these substances is not internationally  
28 standardized, compounds of these structures, regardless of numerical  
29 designation of atomic positions covered).

30 [~~(22)~~] (21) Ethylamine analog of phencyclidine. Some trade or other  
31 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-  
32 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

33 [~~(23)~~] (22) Pyrrolidine analog of phencyclidine. Some trade or other  
34 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

35 [~~(24)~~] (23) Thiophene analog of phencyclidine. Some trade or other  
36 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of  
37 phencyclidine, TPCP, TCP.

38 [~~(25)~~] (24) 3,4-methylenedioxyamphetamine (MDMA).

39 [~~(26)~~] (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as  
40 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,  
41 MDE, MDEA.

42 [~~(27)~~] (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as  
43 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and  
44 N-hydroxy MDA.

45 [~~(28)~~] (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other  
46 names: TCPY.

47 [~~(29)~~] (28) Alpha-ethyltryptamine. Some trade or other names:  
48 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;  
49 3-(2-aminobutyl) indole; Alpha-ET or AET.

50 [~~(30)~~] (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other  
51 names: DOET.

52 [~~(31)~~] (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other  
53 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl  
54 DOB; 2C-B, Nexus.

55 [~~(32)~~] (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its  
56 optical isomers, salts and salts of isomers.

1 § 5. Section 3382 of the public health law is REPEALED.

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

3 § 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs  
4 (a) and (b) of subdivision 11 of section 1311 of the civil practice law  
5 and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added  
6 by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdivi-  
7 sion 11 as amended by section 47 of part A1 of chapter 56 of the laws  
8 of 2010, are amended to read as follows:

9 (d) In a forfeiture action commenced by a claiming authority against a  
10 defendant, the following rebuttable presumption shall apply: all curren-  
11 cy or negotiable instruments payable to the bearer shall be presumed to  
12 be the proceeds of a pre-conviction forfeiture crime when such currency  
13 or negotiable instruments are (i) found in close proximity to a  
14 controlled substance unlawfully possessed by the defendant in an amount  
15 sufficient to constitute a violation of section 220.18 or 220.21 of the  
16 penal law, or (ii) found in close proximity to any quantity of a  
17 controlled substance [~~or marijuana~~] unlawfully possessed by such defend-  
18 ant in a room, other than a public place, under circumstances evincing  
19 an intent to unlawfully mix, compound, distribute, package or otherwise  
20 prepare for sale such controlled substance [~~or marijuana~~].

21 3-a. Conviction of a person in a criminal action upon an accusatory  
22 instrument which includes one or more of the felonies specified in  
23 subdivision four-b of section thirteen hundred ten of this article, of  
24 any felony other than such felonies, shall not preclude a defendant, in  
25 any subsequent proceeding under this article where that conviction is at  
26 issue, from adducing evidence that the conduct underlying the conviction  
27 would not establish the elements of any of the felonies specified in  
28 such subdivision other than the one to which the criminal defendant pled  
29 guilty. If the defendant does adduce such evidence, the burden shall be  
30 upon the claiming authority to prove, by clear and convincing evidence,  
31 that the conduct underlying the criminal conviction would establish the  
32 elements of the felony specified in such subdivision. Nothing contained  
33 in this subdivision shall affect the validity of a settlement of any  
34 forfeiture action negotiated between the claiming authority and a crimi-  
35 nal defendant contemporaneously with the taking of a plea of guilty in a  
36 criminal action to any felony defined in article two hundred twenty [~~or~~  
37 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to  
38 commit the same.

39 (a) Any stipulation or settlement agreement between the parties to a  
40 forfeiture action shall be filed with the clerk of the court in which  
41 the forfeiture action is pending. No stipulation or settlement agreement  
42 shall be accepted for filing unless it is accompanied by an affidavit  
43 from the claiming authority that written notice of the stipulation or  
44 settlement agreement, including the terms of such, has been given to the  
45 office of victim services, the state division of criminal justice  
46 services[~~, and in the case of a forfeiture based on a felony defined in~~  
47 ~~article two hundred twenty or section 221.30 or 221.55 of the penal law,~~  
48 ~~to the state division of substance abuse services~~].

49 (b) No judgment or order of forfeiture shall be accepted for filing  
50 unless it is accompanied by an affidavit from the claiming authority  
51 that written notice of judgment or order, including the terms of such,  
52 has been given to the office of victim services, the state division of  
53 criminal justice services[~~, and in the case of a forfeiture based on a~~  
54 ~~felony defined in article two hundred twenty or section 221.30 or 221.55~~  
55 ~~of the penal law, to the state division of substance abuse services~~].

1 § 8. Subdivision 1 of section 3397-b of the public health law, as  
2 added by chapter 810 of the laws of 1980, is amended to read as follows:

3 1. [~~"Marijuana"~~] "Cannabis" means [~~marijuana~~] cannabis as defined in  
4 [~~section thirty-three hundred two of this chapter~~] subdivision six of  
5 section 220.00 of the penal law and shall also include tetrahydrocanna-  
6 binols or a chemical derivative of tetrahydrocannabinol.

7 § 9. Section 114-a of the vehicle and traffic law, as added by chapter  
8 163 of the laws of 1973, is amended to read as follows:

9 § 114-a. Drug. The term "drug" when used in this chapter, means and  
10 includes any substance listed in section thirty-three hundred six of the  
11 public health law and any substance or combination of substances that  
12 impair physical and mental abilities.

13 § 10. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,  
14 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision  
15 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as  
16 amended by chapter 664 of the laws of 1985, are amended and two new  
17 subdivisions 21 and 22 are added to read as follows:

18 5. "Controlled substance" means any substance listed in schedule I,  
19 II, III, IV or V of section thirty-three hundred six of the public  
20 health law other than [~~marihuana~~] cannabis, but including concentrated  
21 cannabis as defined in [~~paragraph (a) of subdivision four of section~~  
22 ~~thirty-three hundred two of such law~~] subdivision twenty-one of this  
23 section.

24 6. [~~"Marihuana"~~] "Cannabis" means [~~"marihuana" or "concentrated canna-~~  
25 ~~bis" as those terms are defined in section thirty-three hundred two of~~  
26 ~~the public health law~~] all parts of the plant of the genus Cannabis,  
27 whether growing or not; the seeds thereof; the resin extracted from any  
28 part of the plant; and every compound, manufacture, salt, derivative,  
29 mixture, or preparation of the plant, its seeds or resin. It does not  
30 include the mature stalks of the plant, fiber produced from the stalks,  
31 oil or cake made from the seeds of the plant, any other compound, manu-  
32 facture, salt, derivative, mixture, or preparation of the mature stalks  
33 (except the resin extracted therefrom), fiber, oil, or cake, or the  
34 sterilized seed of the plant which is incapable of germination. It does  
35 not include all parts of the plant Cannabis sativa L., whether growing  
36 or not, having no more than three-tenths of one percent tetrahydrocanna-  
37 binol (THC).

38 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~  
39 ~~I(d)~~] paragraphs (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18),  
40 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-  
41 three hundred six of the public health law.

42 21. "Concentrated cannabis" means:

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

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

50 22. "Cannabis products" means cannabis, concentrated cannabis, and  
51 cannabis-infused products containing concentrated cannabis and other  
52 ingredients.

53 § 11. Subdivision 4 of section 220.06 of the penal law, as amended by  
54 chapter 537 of the laws of 1998, is amended to read as follows:

55 4. one or more preparations, compounds, mixtures or substances  
56 containing concentrated cannabis as defined in [~~paragraph (a) of subdi-~~

1 ~~vision four of section thirty-three hundred two of the public health~~  
 2 ~~law] subdivision twenty-one of section 220.00 of this article~~ and said  
 3 preparations, compounds, mixtures or substances are of an aggregate  
 4 weight of one-fourth ounce or more; or

5 § 12. Subdivision 10 of section 220.09 of the penal law, as amended by  
 6 chapter 537 of the laws of 1998, is amended to read as follows:

7 10. one or more preparations, compounds, mixtures or substances  
 8 containing concentrated cannabis as defined in [~~paragraph (a) of subdivi-~~  
 9 ~~vision four of section thirty-three hundred two of the public health~~  
 10 ~~law] subdivision twenty-one of section 220.00 of this article and said  
 11 preparations, compounds, mixtures or substances are of an aggregate  
 12 weight of one ounce or more; or~~

13 § 13. Subdivision 3 of section 220.34 of the penal law, as amended by  
 14 chapter 537 of the laws of 1998, is amended to read as follows:

15 3. concentrated cannabis as defined in [~~paragraph (a) of subdivision~~  
 16 ~~four of section thirty-three hundred two of the public health law]~~  
 17 subdivision twenty-one of section 220.00 of this article; or

18 § 14. Section 220.50 of the penal law, as amended by chapter 627 of  
 19 the laws of 1990, is amended to read as follows:

20 § 220.50 Criminally using drug paraphernalia in the second degree.

21 A person is guilty of criminally using drug paraphernalia in the  
 22 second degree when he knowingly possesses or sells:

23 1. Diluents, dilutants or adulterants, including but not limited to,  
 24 any of the following: quinine hydrochloride, mannitol, mannite, lactose  
 25 or dextrose, adapted for the dilution of narcotic drugs or stimulants  
 26 under circumstances evincing an intent to use, or under circumstances  
 27 evincing knowledge that some person intends to use, the same for  
 28 purposes of unlawfully mixing, compounding, or otherwise preparing any  
 29 narcotic drug or stimulant, other than cannabis or concentrated  
 30 cannabis; or

31 2. Gelatine capsules, glassine envelopes, vials, capsules or any other  
 32 material suitable for the packaging of individual quantities of narcotic  
 33 drugs or stimulants under circumstances evincing an intent to use, or  
 34 under circumstances evincing knowledge that some person intends to use,  
 35 the same for the purpose of unlawfully manufacturing, packaging or  
 36 dispensing of any narcotic drug or stimulant, other than cannabis or  
 37 concentrated cannabis; or

38 3. Scales and balances used or designed for the purpose of weighing or  
 39 measuring controlled substances, under circumstances evincing an intent  
 40 to use, or under circumstances evincing knowledge that some person  
 41 intends to use, the same for purpose of unlawfully manufacturing, pack-  
 42 aging or dispensing of any narcotic drug or stimulant, other than canna-  
 43 bis or concentrated cannabis.

44 Criminally using drug paraphernalia in the second degree is a class A  
 45 misdemeanor.

46 § 15. Article 221 of the penal law is REPEALED.

47 § 16. The penal law is amended by adding a new article 222 to read as  
 48 follows:

49 ARTICLE 222  
 50 CANNABIS

51 Section 222.00 Cannabis; definitions.

52 222.05 Personal use of cannabis.

53 222.10 Unlawful cultivation of cannabis.

54 222.15 Licensing of cannabis production and distribution.

55 222.20 Unlawful possession of cannabis.

56 222.25 Unlicensed sale of cannabis in the second degree.

1           222.30 Unlicensed sale of cannabis in the first degree.  
2           222.35 Sale of cannabis to a person less than twenty-one years  
3           of age in the second degree.  
4           222.40 Sale of cannabis to a person less than twenty-one years  
5           of age in the first degree.  
6 § 222.00 Cannabis; definitions.  
7     1. "Cannabis" means all parts of the plant of the genus Cannabis,  
8 whether growing or not; the seeds thereof; the resin extracted from any  
9 part of the plant; and every compound, manufacture, salt, derivative,  
10 mixture, or preparation of the plant, its seeds or resin. It does not  
11 include the mature stalks of the plant, fiber produced from the stalks,  
12 oil or cake made from the seeds of the plant, any other compound, manu-  
13 facture, salt, derivative, mixture, or preparation of the mature stalks  
14 (except the resin extracted therefrom), fiber, oil, or cake, or the  
15 sterilized seed of the plant which is incapable of germination. It does  
16 not include all parts of the plant Cannabis sativa L., whether growing  
17 or not, having no more than three-tenths of one percent tetrahydrocanna-  
18 binol (THC).  
19     2. "Concentrated cannabis" means:  
20     (a) the separated resin, whether crude or purified, obtained from a  
21 plant of the genus Cannabis; or  
22     (b) a material, preparation, mixture, compound or other substance  
23 which contains more than three percent by weight of delta-9 tetrahydro-  
24 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or  
25 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene  
26 numbering system.  
27     3. "Cannabis-infused products" means products that have been manufac-  
28 tured and contain either cannabis or concentrated cannabis and other  
29 ingredients that are intended for use or consumption.  
30     4. "Mature cannabis plant" means a cannabis plant with observable  
31 flowers or buds.  
32     5. For the purposes of this article, "sale" shall mean to sell,  
33 exchange or dispose of for compensation. "Sale" shall not include the  
34 transfer of cannabis, concentrated cannabis or cannabis-infused product  
35 between persons twenty-one years of age or older without compensation in  
36 the quantities authorized in paragraph (b) of subdivision one of section  
37 222.05 of this article.  
38 § 222.05 Personal use of cannabis.  
39     Notwithstanding any other provision of law to the contrary:  
40     1. The following acts are lawful for persons twenty-one years of age  
41 or older: (a) possessing, displaying, purchasing, obtaining, or trans-  
42 porting up to three ounces of cannabis and up to twenty-four grams of  
43 concentrated cannabis, or equivalent amount of cannabis-infused  
44 products;  
45     (b) transferring, without compensation, to a person twenty-one years  
46 of age or older, up to three ounces of cannabis and up to twenty-four  
47 grams of concentrated cannabis, or equivalent amount of cannabis-infused  
48 products;  
49     (c) using, smoking, ingesting, or consuming cannabis, concentrated  
50 cannabis or cannabis-infused products unless otherwise prohibited by  
51 state law or regulation;  
52     (d) possessing, using, displaying, purchasing, obtaining, manufactur-  
53 ing, transporting or giving to any person twenty-one years of age or  
54 older cannabis paraphernalia or concentrated cannabis paraphernalia; and



1 (e) assisting another person who is twenty-one years of age or older,  
2 or allowing property to be used, in any of the acts described in para-  
3 graphs (a) through (d) of this subdivision.

4 2. Cannabis, concentrated cannabis, cannabis-infused products, canna-  
5 bis paraphernalia or concentrated cannabis paraphernalia involved in any  
6 way with conduct deemed lawful by this section are not contraband nor  
7 subject to seizure or forfeiture of assets under article four hundred  
8 eighty of this chapter, section thirteen hundred eleven of the civil  
9 practice law and rules, or other applicable law, and no conduct deemed  
10 lawful by this section shall constitute the basis for approach, search,  
11 seizure, arrest or detention.

12 3. Except as provided in subdivision four of this section, none of the  
13 following shall, individually or in combination with each other, consti-  
14 tute reasonable suspicion of a crime or be used as evidence of probable  
15 cause in any criminal proceeding against a defendant twenty-one years of  
16 age or older:

17 (a) the odor of cannabis or of burnt cannabis;

18 (b) the possession of or the suspicion of possession of cannabis,  
19 concentrated cannabis or cannabis-infused products in the amounts  
20 authorized in this section;

21 (c) the possession of multiple containers of cannabis without evidence  
22 of possession of more than three ounces of cannabis, twenty-four grams  
23 of concentrated cannabis or the equivalent amount of cannabis-infused  
24 products; or

25 (d) the presence of cash or currency in proximity to cannabis, concen-  
26 trated cannabis or cannabis-infused products.

27 4. Subdivision three of this section shall not apply when a law  
28 enforcement officer is investigating: (a) an alleged offense pursuant to  
29 section 222.20, 222.25, 222.30, 222.35 or 222.40 of this article; or (b)  
30 whether a person is operating or in physical control of a vehicle or  
31 watercraft while intoxicated, under the influence of, or impaired by  
32 alcohol or a drug or any combination thereof in violation of article  
33 thirty-one of the vehicle and traffic law.

34 5. (a) Nothing in this section shall be construed to permit any person  
35 to:

36 (i) smoke cannabis in public;

37 (ii) smoke cannabis products in a location where smoking tobacco is  
38 prohibited pursuant to section thirteen hundred ninety-nine-o of the  
39 public health law;

40 (iii) possess, smoke or ingest cannabis products in or upon the  
41 grounds of any school property used for school purposes which is owned  
42 by or leased to any elementary or secondary school or school board while  
43 children are present; or

44 (iv) smoke or ingest cannabis products while driving, operating a  
45 motor vehicle, boat, vessel, aircraft, or other vehicle used for trans-  
46 portation.

47 (b) For purposes of this section:

48 (i) "Smoke" means to inhale, exhale, burn, or carry any lighted or  
49 heated device or pipe, or any other lighted or heated cannabis or  
50 concentrated cannabis product intended for inhalation, whether natural  
51 or synthetic, in any manner or in any form.

52 (ii) "Smoke" does not include the use of an electronic smoking device  
53 that creates an aerosol or vapor, unless local or state statutes extend  
54 prohibitions on smoking to electronic smoking devices.

1 (c) Violations of the restrictions under this subdivision are subject  
2 to a fine not exceeding twenty-five dollars or an appropriate amount of  
3 community service not to exceed twenty hours.

4 § 222.10 Unlawful cultivation of cannabis.

5 A person is guilty of unlawful cultivation of cannabis when he or she  
6 knowingly and unlawfully plants, cultivates, harvests, dries, or proc-  
7 esses cannabis on public lands or otherwise in violation of article six  
8 of the cannabis law.

9 Unlawful cultivation of cannabis is a class B misdemeanor.

10 § 222.15 Licensing of cannabis production and distribution.

11 The criminal penalties pursuant to the provisions of this article for  
12 possessing, manufacturing, transporting, distributing, selling or trans-  
13 ferring cannabis, concentrated cannabis or cannabis-infused products  
14 shall not apply to any person engaged in such activity in compliance  
15 with the cannabis law.

16 § 222.20 Unlawful possession of cannabis.

17 A person is guilty of unlawful possession of cannabis when he or she  
18 knowingly and unlawfully possesses:

- 19 1. cannabis and such cannabis weighs more than three ounces; or
- 20 2. concentrated cannabis and such concentrated cannabis weighs more  
21 than twenty-four grams; or
- 22 3. equivalent amount of cannabis-infused products.

23 Unlawful possession of cannabis is a violation punishable by a fine of  
24 not more than one hundred twenty-five dollars.

25 § 222.25 Unlicensed sale of cannabis in the second degree.

26 1. A person is guilty of unlicensed sale of cannabis in the second  
27 degree when he or she knowingly and unlawfully sells up to three ounces  
28 of cannabis, or twenty-four grams of concentrated cannabis or equivalent  
29 amount of cannabis-infused products.

30 2. A violation of this section is subject to the following penalties,  
31 as applicable:

32 (a) violation punishable by a fine of not more than one hundred twen-  
33 ty-five dollars;

34 (b) if, within the previous five years, the defendant was convicted of  
35 the crime of unlicensed sale of cannabis in the first degree, sale of  
36 cannabis to a person less than twenty-one years of age in the second  
37 degree, sale of cannabis to a person less than twenty-one years of age  
38 in the first degree or this section, then a violation punishable by a  
39 fine of not more than two hundred fifty dollars for a second such  
40 offense; or

41 (c) if, within the previous five years, the defendant was convicted of  
42 the crime of unlicensed sale of cannabis in the first degree, sale of  
43 cannabis to a person less than twenty-one years of age in the second  
44 degree, sale of cannabis to a person less than twenty-one years of age  
45 in the first degree or this section, then a class B misdemeanor for such  
46 third or subsequent offense.

47 § 222.30 Unlicensed sale of cannabis in the first degree.

48 1. A person is guilty of unlicensed sale of cannabis in the first  
49 degree when he or she knowingly and unlawfully sells more than three  
50 ounces of cannabis, more than twenty-four grams of concentrated cannabis  
51 or the equivalent amount of cannabis-infused products.

52 2. A violation of this section is subject to the following penalties,  
53 as applicable:

54 (a) a violation punishable by a fine of not more than two hundred  
55 fifty dollars;

1 (b) if, within the previous five years, the defendant was convicted of  
2 the crime of unlicensed sale of cannabis in the second degree, sale of  
3 cannabis to a person less than twenty-one years of age in the second  
4 degree, sale of cannabis to a person less than twenty-one years of age  
5 in the first degree or this section, then a violation punishable by a  
6 fine of not more than five hundred dollars for such second offense; or

7 (c) if, within the previous five years, the defendant was convicted of  
8 the crime of unlicensed sale of cannabis in the second degree, sale of  
9 cannabis to a person less than twenty-one years of age in the second  
10 degree, sale of cannabis to a person less than twenty-one years of age  
11 in the first degree or this section, then a class A misdemeanor for such  
12 third or subsequent offense.

13 § 222.35 Sale of cannabis to a person less than twenty-one years of age  
14 in the second degree.

15 A person twenty-one years of age or older is guilty of the sale of  
16 cannabis to a person less than twenty-one years of age in the second  
17 degree when, being twenty-one years of age or older, he or she knowingly  
18 and unlawfully sells cannabis, concentrated cannabis or cannabis-infused  
19 products to a person less than twenty-one years of age.

20 Sale of cannabis to a person under twenty-one years of age in the  
21 second degree is a class A misdemeanor.

22 § 222.40 Sale of cannabis to a person less than twenty-one years of age  
23 in the first degree.

24 A person twenty-one years of age and older is guilty of the sale of  
25 cannabis to a person under twenty-one years of age in the first degree  
26 when, being twenty-one years of age or older, he or she knowingly and  
27 unlawfully sells more than three ounces of cannabis, more than twenty-  
28 four grams of concentrated cannabis or the equivalent amount of canna-  
29 bis-infused products.

30 Sale of cannabis to a person less than twenty-one years of age in the  
31 first degree is a class E felony.

32 § 17. Subdivision 8 of section 1399-n of the public health law, as  
33 amended by chapter 13 of the laws of 2003, is amended to read as  
34 follows:

35 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or  
36 any other matter or substance which contains tobacco or cannabis;  
37 provided that it does not include the use of an electronic smoking  
38 device that creates an aerosol or vapor, unless local or state statutes  
39 extend prohibitions on smoking to electronic smoking devices.

40 § 18. Section 1.20 of the criminal procedure law is amended by adding  
41 a new subdivision 45 to read as follows:

42 45. "Expunge" means, where an arrest and any enforcement activity  
43 connected with that arrest, including prosecution and any disposition in  
44 any New York state court, is deemed a nullity and the accused is  
45 restored, in contemplation of the law, to the status such individual  
46 occupied before the arrest and/or prosecution; that records of such  
47 arrest, prosecution and/or disposition shall be marked as expunged or  
48 shall be destroyed as set forth in section 160.50 of this chapter.  
49 Neither the arrest nor prosecution and/or disposition, if any, of a  
50 matter deemed a nullity shall operate as a disqualification of any  
51 person so accused to pursue or engage in any lawful activity, occupa-  
52 tion, profession or calling. Except where specifically required or  
53 permitted by statute or upon specific authorization of a superior court,  
54 no such person shall be required to divulge information pertaining to  
55 the arrest, prosecution and/or disposition of such a matter.

1 § 19. Subdivision 1 of section 160.50 of the criminal procedure law,  
2 as amended by chapter 169 of the laws of 1994, paragraph (d) as amended  
3 by chapter 449 of the laws of 2015, is amended and a new subdivision 1-a  
4 is added to read as follows:

5 1. Upon the termination of a criminal action or proceeding against a  
6 person in favor of such person, as defined in subdivision three of this  
7 section, unless the district attorney upon motion with not less than  
8 five days notice to such person or his or her attorney demonstrates to  
9 the satisfaction of the court that the interests of justice require  
10 otherwise, or the court on its own motion with not less than five days  
11 notice to such person or his or her attorney determines that the inter-  
12 ests of justice require otherwise and states the reasons for such deter-  
13 mination on the record, [~~the record of such action or proceeding shall~~  
14 ~~be sealed and the clerk of the court wherein such criminal action or~~  
15 ~~proceeding was terminated shall immediately notify the commissioner of~~  
16 ~~the division of criminal justice services and the heads of all appropri-~~  
17 ~~ate police departments and other law enforcement agencies that the~~  
18 ~~action has been terminated in favor of the accused, and unless the court~~  
19 ~~has directed otherwise, that the record of such action or proceeding~~  
20 ~~shall be sealed. Upon receipt of notification of such termination and~~  
21 ~~sealing] such action or proceeding shall be deemed a nullity and records  
22 of such action or proceeding expunged, and the clerk of the court where-  
23 in such criminal action or proceeding was terminated shall immediately  
24 notify the commissioner of the division of criminal justice services and  
25 the heads of all appropriate police departments and other law enforce-  
26 ment agencies that the action has been terminated in favor of the  
27 accused and deemed a nullity, and unless the court has directed other-  
28 wise, that the record of or relating to such action or proceeding shall  
29 be immediately expunged as follows:~~

30 (a) every photograph of such person and photographic plate or proof,  
31 and all palmprints and fingerprints, retina scans or DNA material taken  
32 or made of such person pursuant to the provisions of this article in  
33 regard to the action or proceeding terminated, [~~except a dismissal~~  
34 ~~pursuant to section 170.56 or 210.46 of this chapter,~~] and all dupli-  
35 cates and copies thereof, except a digital fingerprint image where  
36 authorized pursuant to paragraph (e) of this subdivision, shall forth-  
37 with be[, ~~at the discretion of the recipient agency, either~~] destroyed  
38 [~~or returned to such person, or to the attorney who represented such~~  
39 ~~person~~] at the time of the termination of the action or proceeding[, ~~at~~  
40 ~~the address given by such person or attorney during the action or~~  
41 ~~proceeding,~~] by the division of criminal justice services and by any  
42 police department or law enforcement agency having any such photograph,  
43 photographic plate or proof, palmprint [~~or~~], fingerprints, retina scans  
44 or DNA material in its possession or under its control;

45 (b) any police department or law enforcement agency, including the  
46 division of criminal justice services, which transmitted or otherwise  
47 forwarded to any agency of the United States or of any other state or of  
48 any other jurisdiction outside the state of New York copies of any such  
49 photographs, photographic plates or proofs, palmprints [~~and~~], finger-  
50 prints, retina scans or DNA material, including those relating to  
51 actions or proceedings which were dismissed pursuant to section 170.56  
52 or 210.46 of this [~~chapter~~] part, shall forthwith formally [~~request in~~  
53 inform them in] writing that [~~all such copies be destroyed or returned to~~  
54 ~~the police department or law enforcement agency which transmitted or~~  
55 ~~forwarded them, and, if returned, such department or agency shall, at~~  
56 ~~its discretion, either destroy or return them as provided herein, except~~

1 ~~that those relating to dismissals pursuant to section 170.56 or 210.46~~  
2 ~~of this chapter shall not be destroyed or returned by such department or~~  
3 ~~agency] the matter has been expunged and request in writing that all~~  
4 such copies be destroyed;

5 (c) all official records and papers, including judgments and orders of  
6 a court but not including published court decisions or opinions or  
7 records and briefs on appeal, relating to the arrest or prosecution,  
8 including all duplicates and copies thereof, on file with the division  
9 of criminal justice services, any court, police agency, or prosecutor's  
10 office shall be ~~[sealed and not made available to any person or public~~  
11 ~~or private agency]~~ marked as expunged by conspicuously indicating on the  
12 face of the record or at the beginning of the digitized file of the  
13 record that the record has been designated as expunged. Such records and  
14 papers shall be sealed and not be made available to any person, except  
15 the individual whose case has been deemed a nullity or their designated  
16 agent as set forth in paragraph (d) of this subdivision, or to any  
17 public or private agency;

18 (d) ~~[such]~~ records set forth in paragraph (c) of this subdivision  
19 shall be made available to the person accused or to such person's desig-  
20 nated agent, and shall be made available to (i) a prosecutor in any  
21 proceeding in which the accused has moved for an order pursuant to  
22 section 170.56 or 210.46 of this ~~[chapter]~~ part, or (ii) a law enforce-  
23 ment agency upon ex parte motion in any superior court, or in any  
24 district court, city court or the criminal court of the city of New York  
25 provided that such court originally sealed or expunged the record, if  
26 such agency demonstrates to the satisfaction of the court that justice  
27 requires that such records be made available to it, or (iii) any state  
28 or local officer or agency with responsibility for the issuance of  
29 licenses to possess guns, when the accused has made application for such  
30 a license, or (iv) the New York state department of corrections and  
31 community supervision when the accused is on parole supervision as a  
32 result of conditional release or a parole release granted by the New  
33 York state board of parole, and the arrest which is the subject of the  
34 inquiry is one which occurred while the accused was under such super-  
35 vision, or (v) any prospective employer of a police officer or peace  
36 officer as those terms are defined in subdivisions thirty-three and  
37 thirty-four of section 1.20 of this chapter, in relation to an applica-  
38 tion for employment as a police officer or peace officer; provided,  
39 however, that every person who is an applicant for the position of  
40 police officer or peace officer shall be furnished with a copy of all  
41 records obtained under this paragraph and afforded an opportunity to  
42 make an explanation thereto, or (vi) the probation department responsi-  
43 ble for supervision of the accused when the arrest which is the subject  
44 of the inquiry is one which occurred while the accused was under such  
45 supervision; and

46 (e) where fingerprints subject to the provisions of this section have  
47 been received by the division of criminal justice services and have been  
48 filed by the division as digital images, such images may be retained,  
49 provided that a fingerprint card of the individual is on file with the  
50 division which was not ~~[sealed]~~ destroyed pursuant to this section or  
51 section 160.55 of this article.

52 (1-a) Cases previously sealed pursuant to this section shall be deemed  
53 expunged, and digital records shall be so marked.

54 § 20. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50  
55 of the criminal procedure law, paragraphs (i) and (j) as added by chap-  
56 ter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of

1 the laws of 1977 and as relettered by chapter 192 of the laws of 1980  
2 and such subdivision as renumbered by chapter 142 of the laws of 1991,  
3 are amended to read as follows:

4 (i) prior to the filing of an accusatory instrument in a local crimi-  
5 nal court against such person, the prosecutor elects not to prosecute  
6 such person. In such event, the prosecutor shall serve a certification  
7 of such disposition upon the division of criminal justice services and  
8 upon the appropriate police department or law enforcement agency which,  
9 upon receipt thereof, shall comply with the provisions of paragraphs  
10 (a), (b), (c) and (d) of subdivision one of this section in the same  
11 manner as is required thereunder with respect to an order of a court  
12 entered pursuant to said subdivision one~~[-]~~; or

13 (j) following the arrest of such person, the arresting police agency,  
14 prior to the filing of an accusatory instrument in a local criminal  
15 court but subsequent to the forwarding of a copy of the fingerprints of  
16 such person to the division of criminal justice services, elects not to  
17 proceed further. In such event, the head of the arresting police agency  
18 shall serve a certification of such disposition upon the division of  
19 criminal justice services which, upon receipt thereof, shall comply with  
20 the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of  
21 this section in the same manner as is required thereunder with respect  
22 to an order of a court entered pursuant to said subdivision one~~[-]~~; or

23 (k) (i) The accusatory instrument alleged a violation of article two  
24 hundred twenty or section 240.36 of the penal law, prior to the taking  
25 effect of article two hundred twenty-one of the penal law, or by the  
26 conviction of such person of a violation of [~~article two hundred twen-~~  
27 ~~ty one~~] section 221.45 of the penal law on or after the effective date  
28 of the chapter of the laws of two thousand nineteen that amended this  
29 paragraph or a violation of section 221.05, 221.10, 221.15, 221.20,  
30 221.25, 221.30, 221.35 or 221.40 of the penal law prior to the effective  
31 date of the chapter of the laws of two thousand nineteen that amended  
32 this paragraph; and (ii) the sole controlled substance involved is  
33 [~~marijuana; (iii) the conviction was only for a violation or violations;~~  
34 ~~and (iv) at least three years have passed since the offense occurred]~~  
35 marihuana. No defendant shall be required or permitted to waive eligi-  
36 bility for sealing pursuant to this paragraph as part of a plea of guil-  
37 ty, sentence or any agreement related to a conviction for a violation of  
38 section 221.45 of the penal law. Any such waiver shall be deemed void  
39 and wholly unenforceable.

40 § 21. Subdivision 4 of section 160.50 of the criminal procedure law is  
41 REPEALED, and three new subdivisions 4, 5, and 6 are added to read as  
42 follows:

43 4. Where a criminal action or proceeding was terminated, as defined in  
44 paragraph (k) of subdivision three of this section, prior to the effec-  
45 tive date of this subdivision, such criminal action or proceeding shall  
46 be automatically vacated and dismissed, and all records of such action  
47 or proceeding expunged as set forth in subdivision one of this section,  
48 and the matter terminated in favor of the accused and deemed a nullity,  
49 because the prior conviction is now legally invalid. OCA shall automat-  
50 ically notify the commissioner of the division of criminal justice  
51 services and the heads of all appropriate police departments and other  
52 law enforcement agencies that the prior conviction is now legally inval-  
53 id and that the action has been vacated, dismissed and expunged and thus  
54 terminated in favor of the accused. Upon receipt of notification of such  
55 vacatur, termination and expungement, all records relating to the crimi-

1 nal action shall be expunged as described in subdivision one of this  
2 section.

3 5. In situations where automatic vacatur, dismissal, expungement and  
4 record destruction is required by subdivision four of this section but  
5 has not taken place, or where supporting court records cannot be located  
6 or have been destroyed, and an individual or their attorney presents to  
7 OCA fingerprint records from the New York state division of criminal  
8 justice services or a court disposition which indicate that a criminal  
9 action or proceeding against the applicant was terminated by a  
10 conviction for section 221.05, 221.10 221.15, 221.20, 221.25, 221.30,  
11 221.35, or 221.40 of the penal law in effect prior to the effective date  
12 of this subdivision, within thirty days of notice to OCA, the action  
13 shall forthwith be vacated, dismissed, and expunged as set forth in  
14 subdivision one of this section.

15 6. Vacatur, dismissal and expungement as set forth in subdivision four  
16 or subdivision five of this section is without prejudice to an individ-  
17 ual or their attorney seeking further relief pursuant to section 440.10  
18 of this part. Nothing in this section is intended to diminish or abro-  
19 gate any rights or remedies otherwise available to the individual.

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

23 1. Upon or after arraignment in a local criminal court upon an infor-  
24 mation, a prosecutor's information or a misdemeanor complaint, where the  
25 sole remaining count or counts charge a violation or violations of  
26 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 221.45 of the penal  
27 law, or upon summons for a nuisance offense under section sixty-five-c  
28 of the alcoholic beverage control law and before the entry of a plea of  
29 guilty thereto or commencement of a trial thereof, the court, upon  
30 motion of a defendant, may order that all proceedings be suspended and  
31 the action adjourned in contemplation of dismissal, or upon a finding  
32 that adjournment would not be necessary or appropriate and the setting  
33 forth in the record of the reasons for such findings, may dismiss in  
34 furtherance of justice the accusatory instrument; provided, however,  
35 that the court may not order such adjournment in contemplation of  
36 dismissal or dismiss the accusatory instrument if: (a) the defendant has  
37 previously been granted such adjournment in contemplation of dismissal,  
38 or (b) the defendant has previously been granted a dismissal under this  
39 section, or (c) the defendant has previously been convicted of any  
40 offense involving controlled substances, or (d) the defendant has previ-  
41 ously been convicted of a crime and the district attorney does not  
42 consent or (e) the defendant has previously been adjudicated a youthful  
43 offender on the basis of any act or acts involving controlled substances  
44 and the district attorney does not consent. Notwithstanding the limita-  
45 tions set forth in this subdivision, the court may order that all  
46 proceedings be suspended and the action adjourned in contemplation of  
47 dismissal based upon a finding of exceptional circumstances. For  
48 purposes of this subdivision, exceptional circumstances exist when,  
49 regardless of the ultimate disposition of the case, the entry of a plea  
50 of guilty is likely to result in severe or ongoing consequences, includ-  
51 ing, but not limited to, potential or actual immigration consequences.

52 § 23. Paragraph (j) of subdivision 1 of section 440.10 of the criminal  
53 procedure law, as amended by section 2 of part MMM of chapter 59 of the  
54 laws of 2019, is amended and a new paragraph (k) is added to read as  
55 follows:

1 (j) The judgment is a conviction for a class A or unclassified misde-  
2 meanor entered prior to the effective date of this paragraph and satis-  
3 fies the ground prescribed in paragraph (h) of this subdivision. There  
4 shall be a rebuttable presumption that a conviction by plea to such an  
5 offense was not knowing, voluntary and intelligent, based on ongoing  
6 collateral consequences, including potential or actual immigration  
7 consequences, and there shall be a rebuttable presumption that a  
8 conviction by verdict constitutes cruel and unusual punishment under  
9 section five of article one of the state constitution based on such  
10 consequences[~~r~~]; or

11 (k) if pertinent, such relief is available notwithstanding that the  
12 judgment was for a violation of section 221.05, 221.10, 221.15, 221.20,  
13 221.25, 221.30, 221.35, or 221.40 of the penal law in effect prior to  
14 the effective date of this paragraph and that the underlying action or  
15 proceeding has already been vacated, dismissed and expunged pursuant to  
16 subdivision four or subdivision five of section 160.50 of this chapter  
17 in which case the court shall presume that a conviction by plea for a  
18 violation of the aforementioned sections of the then penal law was not  
19 knowing, voluntary and intelligent, if it has ongoing consequences,  
20 including but not limited to, potential or actual immigration conse-  
21 quences, and shall presume that a conviction by verdict of the aforemen-  
22 tioned sections of the then penal law constitutes cruel and unusual  
23 punishment under the state constitution, based on those consequences.  
24 The prosecution may rebut these presumptions.

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. Where a person is currently serving a sentence for a conviction,  
30 whether by verdict or by open or negotiated plea, who would not have  
31 been guilty of an offense after the effective date of this section had  
32 this section been in effect at the time of their conviction, the office  
33 of court administration shall automatically vacate, dismiss and expunge  
34 such conviction pursuant to subdivision four of section 160.50 of this  
35 part and immediately notify the New York state department of corrections  
36 and community supervision and local jails, which entities shall imme-  
37 diately effectuate the appropriate relief. The office of court adminis-  
38 tration shall likewise automatically notify the division of criminal  
39 justice services and any police department and law enforcement agency,  
40 which division, department or agency must immediately destroy appurten-  
41 ant records as set forth in subdivision four of section 160.50 of this  
42 part.

43 2. (a) A person currently serving a sentence for a conviction, whether  
44 by verdict or by open or negotiated plea, who would have been guilty of  
45 a lesser offense after the effective date of this section had this  
46 section been in effect at the time of their conviction may petition for  
47 a recall of sentence before the trial court that entered the judgment of  
48 conviction in their case to request resentencing in accordance with  
49 article two hundred twenty-two of the penal law.

50 (b) Upon receiving a motion under paragraph (a) of this subdivision,  
51 the court shall presume the movant satisfies the criteria in such para-  
52 graph (a) unless the party opposing the motion proves by clear and  
53 convincing evidence that the movant does not satisfy the criteria. If  
54 the movant satisfies the criteria in paragraph (a) of this subdivision,  
55 the court shall grant the motion to resentence.



1 3. Under no circumstances may resentencing under this section result  
2 in the imposition of a term longer than the original sentence, or the  
3 reinstatement of charges dismissed pursuant to a negotiated plea agree-  
4 ment.

5 4. (a) A person who has completed his or her sentence for a conviction  
6 under the former article two hundred twenty-one of the penal law, wheth-  
7 er by trial or open or negotiated plea, who would have been guilty of a  
8 lesser offense on and after the effective date of this section had this  
9 section been in effect at the time of his or her conviction, may file an  
10 application before the trial court that entered the judgment of  
11 conviction in his or her case to have the conviction redesignated (or  
12 "reclassified"), in accordance with article two hundred twenty-two of  
13 the penal law.

14 (b) Upon receiving a motion under paragraph (a) of this subdivision,  
15 the court shall presume the movant satisfies the criteria in paragraph  
16 (a) of this subdivision unless the party opposing the motion proves by  
17 clear and convincing evidence that the movant does not satisfy the  
18 criteria. If the movant satisfies the criteria in paragraph (a) of this  
19 subdivision, the court shall grant the motion to redesignate (or  
20 "reclassify") the conviction.

21 5. (a) If the court that originally sentenced the movant is not avail-  
22 able, the presiding judge shall designate another judge to rule on the  
23 petition or application.

24 (b) Unless requested by the movant, no hearing is necessary to grant  
25 an application filed under subdivision two or four of this section.

26 (c) Any felony conviction that is vacated and resentenced under subdi-  
27 vision two of this section or designated as a misdemeanor or violation  
28 under subdivision four of this section shall be considered a misdemeanor  
29 or violation for all purposes. Any misdemeanor conviction that is  
30 vacated and resentenced under subdivision two of this section or desig-  
31 nated as a violation under subdivision four of this section shall be  
32 considered a violation for all purposes.

33 (d) Nothing in this section is intended to diminish or abrogate any  
34 rights or remedies otherwise available to the petitioner or applicant.

35 (e) Nothing in this and related sections is intended to diminish or  
36 abrogate the finality of judgments in any case not falling within the  
37 purview of this section.

38 (f) The provisions of this section shall apply equally to juvenile  
39 delinquency adjudications and dispositions under section five hundred  
40 one-e of the executive law if the juvenile would not have been guilty of  
41 an offense or would have been guilty of a lesser offense under this  
42 section had this section been in effect at the time of his or her  
43 conviction.

44 (g) The office of court administration shall promulgate and make  
45 available all necessary forms to enable the filing of the petitions and  
46 applications provided in this section no later than sixty days following  
47 the effective date of this section.

48 § 25. Paragraph (c) of subdivision 8 of section 700.05 of the criminal  
49 procedure law, as amended by chapter 37 of the laws of 2014, is amended  
50 to read as follows:

51 (c) Criminal possession of a controlled substance in the seventh  
52 degree as defined in section 220.03 of the penal law, criminal  
53 possession of a controlled substance in the fifth degree as defined in  
54 section 220.06 of the penal law, criminal possession of a controlled  
55 substance in the fourth degree as defined in section 220.09 of the penal  
56 law, criminal possession of a controlled substance in the third degree

1 as defined in section 220.16 of the penal law, criminal possession of a  
2 controlled substance in the second degree as defined in section 220.18  
3 of the penal law, criminal possession of a controlled substance in the  
4 first degree as defined in section 220.21 of the penal law, criminal  
5 sale of a controlled substance in the fifth degree as defined in section  
6 220.31 of the penal law, criminal sale of a controlled substance in the  
7 fourth degree as defined in section 220.34 of the penal law, criminal  
8 sale of a controlled substance in the third degree as defined in section  
9 220.39 of the penal law, criminal sale of a controlled substance in the  
10 second degree as defined in section 220.41 of the penal law, criminal  
11 sale of a controlled substance in the first degree as defined in section  
12 220.43 of the penal law, criminally possessing a hypodermic instrument  
13 as defined in section 220.45 of the penal law, criminal sale of a  
14 prescription for a controlled substance or a controlled substance by a  
15 practitioner or pharmacist as defined in section 220.65 of the penal  
16 law, criminal possession of methamphetamine manufacturing material in  
17 the second degree as defined in section 220.70 of the penal law, crimi-  
18 nal possession of methamphetamine manufacturing material in the first  
19 degree as defined in section 220.71 of the penal law, criminal  
20 possession of precursors of methamphetamine as defined in section 220.72  
21 of the penal law, unlawful manufacture of methamphetamine in the third  
22 degree as defined in section 220.73 of the penal law, unlawful manufac-  
23 ture of methamphetamine in the second degree as defined in section  
24 220.74 of the penal law, unlawful manufacture of methamphetamine in the  
25 first degree as defined in section 220.75 of the penal law, unlawful  
26 disposal of methamphetamine laboratory material as defined in section  
27 220.76 of the penal law, operating as a major trafficker as defined in  
28 section 220.77 of the penal law, [~~criminal possession of marihuana in  
29 the first degree as defined in section 221.30 of the penal law, criminal  
30 sale of marihuana in the first degree as defined in section 221.55 of  
31 the penal law,~~] promoting gambling in the second degree as defined in  
32 section 225.05 of the penal law, promoting gambling in the first degree  
33 as defined in section 225.10 of the penal law, possession of gambling  
34 records in the second degree as defined in section 225.15 of the penal  
35 law, possession of gambling records in the first degree as defined in  
36 section 225.20 of the penal law, and possession of a gambling device as  
37 defined in section 225.30 of the penal law;

38 § 26. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and  
39 9 of section 1310 of the civil practice law and rules, paragraphs (b)  
40 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990  
41 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,  
42 are amended to read as follows:

43 (b) on three or more occasions, engaging in conduct constituting a  
44 violation of any of the felonies defined in section 220.09, 220.16,  
45 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[,], ~~or 220.43 [or 221.55]~~  
46 of the penal law, which violations do not constitute a single criminal  
47 offense as defined in subdivision one of section 40.10 of the criminal  
48 procedure law, or a single criminal transaction, as defined in paragraph  
49 (a) of subdivision two of section 40.10 of the criminal procedure law,  
50 and at least one of which resulted in a conviction of such offense, or  
51 where the accusatory instrument charges one or more of such felonies,  
52 conviction upon a plea of guilty to a felony for which such plea is  
53 otherwise authorized by law; or

54 (c) a conviction of a person for a violation of section 220.09,  
55 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-  
56 nal defendant for a violation of section 221.30 of the penal law,~~] or

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

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

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

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

25 13. "Serious offense" shall mean any felony involving the offenses  
26 enumerated in the closing paragraph of this subdivision; a criminal  
27 solicitation of or a conspiracy to commit or an attempt to commit or a  
28 criminal facilitation of a felony involving the offenses enumerated in  
29 the closing paragraph of this subdivision, which criminal solicitation,  
30 conspiracy, attempt or criminal facilitation itself constitutes a felony  
31 or any offense in any other jurisdiction which if committed in this  
32 state would constitute a felony; any offense in any other jurisdiction  
33 which if committed in this state would constitute a felony provided that  
34 for the purposes of this article, none of the following shall be consid-  
35 ered criminal convictions or reported as such: (i) a conviction for  
36 which an executive pardon has been issued pursuant to the executive law;  
37 (ii) a conviction which has been vacated and replaced by a youthful  
38 offender finding pursuant to article seven hundred twenty of the crimi-  
39 nal procedure law, or the applicable provisions of law of any other  
40 jurisdiction; or (iii) a conviction the records of which have been  
41 sealed pursuant to the applicable provisions of the laws of this state  
42 or of any other jurisdiction; and (iv) a conviction for which other  
43 evidence of successful rehabilitation to remove the disability has been  
44 issued.

45 Felonies involving: assault, aggravated assault and reckless endanger-  
46 ment pursuant to article one hundred twenty; vehicular manslaughter,  
47 manslaughter and murder pursuant to article one hundred twenty-five; sex  
48 offenses pursuant to article one hundred thirty; unlawful imprisonment,  
49 kidnapping or coercion pursuant to article one hundred thirty-five;  
50 criminal trespass and burglary pursuant to article one hundred forty;  
51 criminal mischief, criminal tampering and tampering with a consumer  
52 product pursuant to article one hundred forty-five; arson pursuant to  
53 article one hundred fifty; larceny and offenses involving theft pursuant  
54 to article one hundred fifty-five; offenses involving computers pursuant  
55 to article one hundred fifty-six; robbery pursuant to article one  
56 hundred sixty; criminal possession of stolen property pursuant to arti-

1 cle one hundred sixty-five; forgery and related offenses pursuant to  
2 article one hundred seventy; involving false written statements pursuant  
3 to article one hundred seventy-five; commercial bribing and commercial  
4 bribe receiving pursuant to article one hundred eighty; criminal imper-  
5 sonation and scheme to defraud pursuant to article one hundred ninety;  
6 bribery involving public servants and related offenses pursuant to arti-  
7 cle two hundred; perjury and related offenses pursuant to article two  
8 hundred ten; tampering with a witness, intimidating a victim or witness  
9 and tampering with physical evidence pursuant to article two hundred  
10 fifteen; criminal possession of a controlled substance pursuant to  
11 sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a  
12 controlled substance pursuant to sections 220.31, 220.34, 220.39,  
13 220.41, 220.43 and 220.44; [~~criminal~~ unlicensed sale of [~~marijuana~~  
14 cannabis in the first degree pursuant to [~~sections 221.45, 221.50 and~~  
15 ~~221.55~~] section 222.30]; riot in the first degree, aggravated harassment  
16 in the first degree, criminal nuisance in the first degree and falsely  
17 reporting an incident in the second or first degree pursuant to article  
18 two hundred forty; and crimes against public safety pursuant to article  
19 two hundred sixty-five of the penal law.

20 § 28. Paragraph (f) of subdivision 2 of section 850 of the general  
21 business law is REPEALED.

22 § 29. Paragraph (h) of subdivision 2 of section 850 of the general  
23 business law, as amended by chapter 812 of the laws of 1980, is amended  
24 to read as follows:

25 (h) Objects, used or designed for the purpose of ingesting, inhaling,  
26 or otherwise introducing [~~marihuana,~~] cocaine[~~, hashish, or hashish oil~~]  
27 into the human body.

28 § 30. Subdivision 7 of section 995 of the executive law, as amended by  
29 chapter 19 of the laws of 2012, is amended to read as follows:

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

37 § 31. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the  
38 penal law, paragraph (b) as amended by section 31 of part AAA of chapter  
39 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the  
40 laws of 1990, are amended to read as follows:

41 (b) three or more violations of any of the felonies defined in section  
42 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,  
43 220.43[~~,~~] or 220.77[~~,~~ ~~or 221.55~~] of this chapter, which violations do  
44 not constitute a single criminal offense as defined in subdivision one  
45 of section 40.10 of the criminal procedure law, or a single criminal  
46 transaction, as defined in paragraph (a) of subdivision two of section  
47 40.10 of the criminal procedure law, and at least one of which resulted  
48 in a conviction of such offense, or where the accusatory instrument  
49 charges one or more of such felonies, conviction upon a plea of guilty  
50 to a felony for which such plea is otherwise authorized by law; or

51 (c) a conviction of a person for a violation of section 220.09,  
52 220.16, 220.34[~~,~~] or 220.39[~~,~~ ~~or 221.30~~] of this chapter, or where the  
53 accusatory instrument charges any such felony, conviction upon a plea of  
54 guilty to a felony for which the plea is otherwise authorized by law,  
55 together with evidence which: (i) provides substantial indicia that the  
56 defendant used the real property to engage in a continual, ongoing

1 course of conduct involving the unlawful mixing, compounding, manufac-  
2 turing, warehousing, or packaging of controlled substances [~~or where the~~  
3 ~~conviction is for a violation of section 221.30 of this chapter, mari-~~  
4 ~~juana~~] as part of an illegal trade or business for gain; and (ii) estab-  
5 lishes, where the conviction is for possession of a controlled substance  
6 [~~or where the conviction is for a violation of section 221.30 of this~~  
7 ~~chapter, marijuana~~], that such possession was with the intent to sell  
8 it.

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

12 (c) The offenses referred to in subparagraph (i) of paragraph (b) of  
13 subdivision one and subparagraph (i) of paragraph (c) of subdivision two  
14 of this section that result in disqualification for a period of five  
15 years shall include a conviction under sections 100.10, 105.13, 115.05,  
16 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,  
17 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,  
18 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,  
19 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~  
20 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05,  
21 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of  
22 section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,  
23 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of  
24 the aforesaid offenses under section 110.00 of the penal law, or any  
25 similar offenses committed under a former section of the penal law, or  
26 any offenses committed under a former section of the penal law which  
27 would constitute violations of the aforesaid sections of the penal law,  
28 or any offenses committed outside this state which would constitute  
29 violations of the aforesaid sections of the penal law.

30 § 33. The opening paragraph of paragraph (a) of subdivision 2 of  
31 section 1194 of the vehicle and traffic law, as amended by chapter 196  
32 of the laws of 1996, is amended to read as follows:

33 When authorized. Any person who operates a motor vehicle in this state  
34 shall be deemed to have given consent to a chemical test of one or more  
35 of the following: breath, blood[, ~~or~~ urine[, ~~or saliva,~~  
36 purpose of determining the alcoholic and/or drug content, other than  
37 cannabis content including but not limited to tetrahydrocannabinol  
38 content, of the blood provided that such test is administered by or at  
39 the direction of a police officer with respect to a chemical test of  
40 breath, urine [~~or saliva~~] or, with respect to a chemical test of blood,  
41 at the direction of a police officer:

42 § 34. The article heading of article 20-B of the tax law, as added by  
43 chapter 90 of the laws of 2014, is amended to read as follows:

44 ARTICLE 20-B

45 EXCISE TAX ON MEDICAL [~~MARIHUANA~~] CANNABIS

46 § 35. Subdivision 1 of section 171-a of the tax law, as amended by  
47 section 3 of part XX of chapter 59 of the laws of 2019, is amended to  
48 read as follows:

49 1. All taxes, interest, penalties and fees collected or received by  
50 the commissioner or the commissioner's duly authorized agent under arti-  
51 cles nine (except section one hundred eighty-two-a thereof and except as  
52 otherwise provided in section two hundred five thereof), nine-A,  
53 twelve-A (except as otherwise provided in section two hundred eighty-  
54 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
55 section three hundred twelve thereof), eighteen, nineteen, twenty  
56 (except as otherwise provided in section four hundred eighty-two there-

1 of), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four,  
2 twenty-six, twenty-eight (except as otherwise provided in section eleven  
3 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-  
4 nine-B, thirty-one (except as otherwise provided in section fourteen  
5 hundred twenty-one thereof), thirty-three and thirty-three-A of this  
6 chapter shall be deposited daily in one account with such responsible  
7 banks, banking houses or trust companies as may be designated by the  
8 comptroller, to the credit of the comptroller. Such an account may be  
9 established in one or more of such depositories. Such deposits shall be  
10 kept separate and apart from all other money in the possession of the  
11 comptroller. The comptroller shall require adequate security from all  
12 such depositories. Of the total revenue collected or received under such  
13 articles of this chapter, the comptroller shall retain in the comp-  
14 troller's hands such amount as the commissioner may determine to be  
15 necessary for refunds or reimbursements under such articles of this  
16 chapter out of which amount the comptroller shall pay any refunds or  
17 reimbursements to which taxpayers shall be entitled under the provisions  
18 of such articles of this chapter. The commissioner and the comptroller  
19 shall maintain a system of accounts showing the amount of revenue  
20 collected or received from each of the taxes imposed by such articles.  
21 The comptroller, after reserving the amount to pay such refunds or  
22 reimbursements, shall, on or before the tenth day of each month, pay  
23 into the state treasury to the credit of the general fund all revenue  
24 deposited under this section during the preceding calendar month and  
25 remaining to the comptroller's credit on the last day of such preceding  
26 month, (i) except that the comptroller shall pay to the state department  
27 of social services that amount of overpayments of tax imposed by article  
28 twenty-two of this chapter and the interest on such amount which is  
29 certified to the comptroller by the commissioner as the amount to be  
30 credited against past-due support pursuant to subdivision six of section  
31 one hundred seventy-one-c of this article, (ii) and except that the  
32 comptroller shall pay to the New York state higher education services  
33 corporation and the state university of New York or the city university  
34 of New York respectively that amount of overpayments of tax imposed by  
35 article twenty-two of this chapter and the interest on such amount which  
36 is certified to the comptroller by the commissioner as the amount to be  
37 credited against the amount of defaults in repayment of guaranteed  
38 student loans and state university loans or city university loans pursu-  
39 ant to subdivision five of section one hundred seventy-one-d and subdivi-  
40 sion six of section one hundred seventy-one-e of this article, (iii)  
41 and except further that, notwithstanding any law, the comptroller shall  
42 credit to the revenue arrearage account, pursuant to section  
43 ninety-one-a of the state finance law, that amount of overpayment of tax  
44 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B  
45 or thirty-three of this chapter, and any interest thereon, which is  
46 certified to the comptroller by the commissioner as the amount to be  
47 credited against a past-due legally enforceable debt owed to a state  
48 agency pursuant to paragraph (a) of subdivision six of section one  
49 hundred seventy-one-f of this article, provided, however, he shall cred-  
50 it to the special offset fiduciary account, pursuant to section ninety-  
51 one-c of the state finance law, any such amount creditable as a liabil-  
52 ity as set forth in paragraph (b) of subdivision six of section one  
53 hundred seventy-one-f of this article, (iv) and except further that the  
54 comptroller shall pay to the city of New York that amount of overpayment  
55 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,  
56 thirty-B or thirty-three of this chapter and any interest thereon that

1 is certified to the comptroller by the commissioner as the amount to be  
2 credited against city of New York tax warrant judgment debt pursuant to  
3 section one hundred seventy-one-1 of this article, (v) and except  
4 further that the comptroller shall pay to a non-obligated spouse that  
5 amount of overpayment of tax imposed by article twenty-two of this chap-  
6 ter and the interest on such amount which has been credited pursuant to  
7 section one hundred seventy-one-c, one hundred seventy-one-d, one  
8 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-  
9 ty-one-1 of this article and which is certified to the comptroller by  
10 the commissioner as the amount due such non-obligated spouse pursuant to  
11 paragraph six of subsection (b) of section six hundred fifty-one of this  
12 chapter; and (vi) the comptroller shall deduct a like amount which the  
13 comptroller shall pay into the treasury to the credit of the general  
14 fund from amounts subsequently payable to the department of social  
15 services, the state university of New York, the city university of New  
16 York, or the higher education services corporation, or the revenue  
17 arrearage account or special offset fiduciary account pursuant to  
18 section ninety-one-a or ninety-one-c of the state finance law, as the  
19 case may be, whichever had been credited the amount originally withheld  
20 from such overpayment, and (vii) with respect to amounts originally  
21 withheld from such overpayment pursuant to section one hundred seventy-  
22 one-1 of this article and paid to the city of New York, the comptroller  
23 shall collect a like amount from the city of New York.

24 § 36. Subdivision 1 of section 171-a of the tax law, as amended by  
25 section 4 of part XX of chapter 59 of the laws of 2019, is amended to  
26 read as follows:

27 1. All taxes, interest, penalties and fees collected or received by  
28 the commissioner or the commissioner's duly authorized agent under arti-  
29 cles nine (except section one hundred eighty-two-a thereof and except as  
30 otherwise provided in section two hundred five thereof), nine-A,  
31 twelve-A (except as otherwise provided in section two hundred eighty-  
32 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
33 section three hundred twelve thereof), eighteen, nineteen, twenty  
34 (except as otherwise provided in section four hundred eighty-two there-  
35 of), **twenty-C.** twenty-D, twenty-one, twenty-two, twenty-four, twenty-  
36 six, twenty-eight (except as otherwise provided in section eleven  
37 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-  
38 nine-B, thirty-one (except as otherwise provided in section fourteen  
39 hundred twenty-one thereof), thirty-three and thirty-three-A of this  
40 chapter shall be deposited daily in one account with such responsible  
41 banks, banking houses or trust companies as may be designated by the  
42 comptroller, to the credit of the comptroller. Such an account may be  
43 established in one or more of such depositories. Such deposits shall be  
44 kept separate and apart from all other money in the possession of the  
45 comptroller. The comptroller shall require adequate security from all  
46 such depositories. Of the total revenue collected or received under such  
47 articles of this chapter, the comptroller shall retain in the comp-  
48 troller's hands such amount as the commissioner may determine to be  
49 necessary for refunds or reimbursements under such articles of this  
50 chapter out of which amount the comptroller shall pay any refunds or  
51 reimbursements to which taxpayers shall be entitled under the provisions  
52 of such articles of this chapter. The commissioner and the comptroller  
53 shall maintain a system of accounts showing the amount of revenue  
54 collected or received from each of the taxes imposed by such articles.  
55 The comptroller, after reserving the amount to pay such refunds or  
56 reimbursements, shall, on or before the tenth day of each month, pay

1 into the state treasury to the credit of the general fund all revenue  
2 deposited under this section during the preceding calendar month and  
3 remaining to the comptroller's credit on the last day of such preceding  
4 month, (i) except that the comptroller shall pay to the state department  
5 of social services that amount of overpayments of tax imposed by article  
6 twenty-two of this chapter and the interest on such amount which is  
7 certified to the comptroller by the commissioner as the amount to be  
8 credited against past-due support pursuant to subdivision six of section  
9 one hundred seventy-one-c of this article, (ii) and except that the  
10 comptroller shall pay to the New York state higher education services  
11 corporation and the state university of New York or the city university  
12 of New York respectively that amount of overpayments of tax imposed by  
13 article twenty-two of this chapter and the interest on such amount which  
14 is certified to the comptroller by the commissioner as the amount to be  
15 credited against the amount of defaults in repayment of guaranteed  
16 student loans and state university loans or city university loans pursu-  
17 ant to subdivision five of section one hundred seventy-one-d and subdivi-  
18 sion six of section one hundred seventy-one-e of this article, (iii)  
19 and except further that, notwithstanding any law, the comptroller shall  
20 credit to the revenue arrearage account, pursuant to section  
21 ninety-one-a of the state finance law, that amount of overpayment of tax  
22 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B  
23 or thirty-three of this chapter, and any interest thereon, which is  
24 certified to the comptroller by the commissioner as the amount to be  
25 credited against a past-due legally enforceable debt owed to a state  
26 agency pursuant to paragraph (a) of subdivision six of section one  
27 hundred seventy-one-f of this article, provided, however, he shall cred-  
28 it to the special offset fiduciary account, pursuant to section ninety-  
29 one-c of the state finance law, any such amount creditable as a liabil-  
30 ity as set forth in paragraph (b) of subdivision six of section one  
31 hundred seventy-one-f of this article, (iv) and except further that the  
32 comptroller shall pay to the city of New York that amount of overpayment  
33 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,  
34 thirty-B or thirty-three of this chapter and any interest thereon that  
35 is certified to the comptroller by the commissioner as the amount to be  
36 credited against city of New York tax warrant judgment debt pursuant to  
37 section one hundred seventy-one-l of this article, (v) and except  
38 further that the comptroller shall pay to a non-obligated spouse that  
39 amount of overpayment of tax imposed by article twenty-two of this chap-  
40 ter and the interest on such amount which has been credited pursuant to  
41 section one hundred seventy-one-c, one hundred seventy-one-d, one  
42 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-  
43 ty-one-l of this article and which is certified to the comptroller by  
44 the commissioner as the amount due such non-obligated spouse pursuant to  
45 paragraph six of subsection (b) of section six hundred fifty-one of this  
46 chapter; and (vi) the comptroller shall deduct a like amount which the  
47 comptroller shall pay into the treasury to the credit of the general  
48 fund from amounts subsequently payable to the department of social  
49 services, the state university of New York, the city university of New  
50 York, or the higher education services corporation, or the revenue  
51 arrearage account or special offset fiduciary account pursuant to  
52 section ninety-one-a or ninety-one-c of the state finance law, as the  
53 case may be, whichever had been credited the amount originally withheld  
54 from such overpayment, and (vii) with respect to amounts originally  
55 withheld from such overpayment pursuant to section one hundred seventy-



1 one-l of this article and paid to the city of New York, the comptroller  
2 shall collect a like amount from the city of New York.

3 § 37. Section 490 of the tax law, as added by chapter 90 of the laws  
4 of 2014, is amended to read as follows:

5 § 490. ~~[Definitions]~~ Excise tax on medical cannabis. 1. (a) ~~[All~~  
6 ~~definitions—of terms applicable to title five-A of article thirty-three~~  
7 ~~of the public health law shall apply to this article.]~~ For purposes of  
8 this article, the terms "medical cannabis," "registered organization,"  
9 "certified patient," and "designated caregiver" shall have the same  
10 definitions as in section three of the cannabis law.

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

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

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

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

49 5. Whenever the commissioner shall determine that any moneys received  
50 under the provisions of this article were paid in error, he may cause  
51 the same to be refunded, with interest, in accordance with such rules  
52 and regulations as he may prescribe, except that no interest shall be  
53 allowed or paid if the amount thereof would be less than one dollar.  
54 Such interest shall be at the overpayment rate set by the commissioner  
55 pursuant to subdivision twenty-sixth of section one hundred seventy-one  
56 of this chapter, or if no rate is set, at the rate of six percent per

1 annum, from the date when the tax, penalty or interest to be refunded  
2 was paid to a date preceding the date of the refund check by not more  
3 than thirty days. Provided, however, that for the purposes of this  
4 subdivision, any tax paid before the last day prescribed for its payment  
5 shall be deemed to have been paid on such last day. Such moneys received  
6 under the provisions of this article which the commissioner shall deter-  
7 mine were paid in error, may be refunded out of funds in the custody of  
8 the comptroller to the credit of such taxes provided an application  
9 therefor is filed with the commissioner within two years from the time  
10 the erroneous payment was made.

11 6. The provisions of article twenty-seven of this chapter shall apply  
12 to the tax imposed by this article in the same manner and with the same  
13 force and effect as if the language of such article had been incorpo-  
14 rated in full into this section and had expressly referred to the tax  
15 imposed by this article, except to the extent that any provision of such  
16 article is either inconsistent with a provision of this article or is  
17 not relevant to this article.

18 7. All taxes, interest and penalties collected or received by the  
19 commissioner under this article shall be deposited and disposed of  
20 pursuant to the provisions of section one hundred seventy-one-a of this  
21 chapter, provided that an amount equal to one hundred percent collected  
22 under this article less any amount determined by the commissioner to be  
23 reserved by the comptroller for refunds or reimbursements shall be paid  
24 by the comptroller to the credit of the medical [~~marihuana~~] cannabis  
25 trust fund established by section eighty-nine-h of the state finance  
26 law.

27 8. A registered organization that dispenses medical [~~marihuana~~] canna-  
28 bis shall provide to the department information on where the medical  
29 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]  
30 cannabis was manufactured. A registered organization that obtains [~~mar-~~  
31 ~~huana~~] cannabis from another registered organization shall obtain from  
32 such registered organization information on where the medical [~~marihua-~~  
33 ~~na~~] cannabis was manufactured.

34 § 38. Section 491 of the tax law, as added by chapter 90 of the laws  
35 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60  
36 of the laws of 2016, is amended to read as follows:

37 § 491. Returns to be secret. 1. Except in accordance with proper judi-  
38 cial order or as in this section or otherwise provided by law, it shall  
39 be unlawful for the commissioner, any officer or employee of the depart-  
40 ment, or any officer or person who, pursuant to this section, is permit-  
41 ted to inspect any return or report or to whom a copy, an abstract or a  
42 portion of any return or report is furnished, or to whom any information  
43 contained in any return or report is furnished, or any person engaged or  
44 retained by such department on an independent contract basis or any  
45 person who in any manner may acquire knowledge of the contents of a  
46 return or report filed pursuant to this article to divulge or make known  
47 in any manner the contents or any other information relating to the  
48 business of a distributor, owner or other person contained in any return  
49 or report required under this article. The officers charged with the  
50 custody of such returns or reports shall not be required to produce any  
51 of them or evidence of anything contained in them in any action or  
52 proceeding in any court, except on behalf of the state, [~~the state~~  
53 ~~department of health~~] office of cannabis management, or the commissioner  
54 in an action or proceeding under the provisions of this chapter or on  
55 behalf of the state or the commissioner in any other action or proceed-  
56 ing involving the collection of a tax due under this chapter to which

1 the state or the commissioner is a party or a claimant or on behalf of  
2 any party to any action or proceeding under the provisions of this arti-  
3 cle, when the returns or the reports or the facts shown thereby are  
4 directly involved in such action or proceeding, or in an action or  
5 proceeding relating to the regulation or taxation of medical [~~marihuana~~  
6 cannabis] on behalf of officers to whom information shall have been  
7 supplied as provided in subdivision two of this section, in any of which  
8 events the court may require the production of, and may admit in  
9 evidence so much of said returns or reports or of the facts shown there-  
10 by as are pertinent to the action or proceeding and no more. Nothing  
11 herein shall be construed to prohibit the commissioner, in his or her  
12 discretion, from allowing the inspection or delivery of a certified copy  
13 of any return or report filed under this article or of any information  
14 contained in any such return or report by or to a duly authorized offi-  
15 cer or employee of the [~~state department of health~~] office of cannabis  
16 management; or by or to the attorney general or other legal represen-  
17 tatives of the state when an action shall have been recommended or  
18 commenced pursuant to this chapter in which such returns or reports or  
19 the facts shown thereby are directly involved; or the inspection of the  
20 returns or reports required under this article by the comptroller or  
21 duly designated officer or employee of the state department of audit and  
22 control, for purposes of the audit of a refund of any tax paid by a  
23 registered organization or other person under this article; nor to  
24 prohibit the delivery to a registered organization, or a duly authorized  
25 representative of such registered organization, a certified copy of any  
26 return or report filed by such registered organization pursuant to this  
27 article, nor to prohibit the publication of statistics so classified as  
28 to prevent the identification of particular returns or reports and the  
29 items thereof. This section shall also not be construed to prohibit the  
30 disclosure, for tax administration purposes, to the division of the  
31 budget and the office of the state comptroller, of information aggre-  
32 gated from the returns filed by all the registered organizations making  
33 sales of, or manufacturing, medical [~~marihuana~~] cannabis in a specified  
34 county, whether the number of such registered organizations is one or  
35 more. Provided further that, notwithstanding the provisions of this  
36 subdivision, the commissioner may, in his or her discretion, permit the  
37 proper officer of any county entitled to receive an allocation, follow-  
38 ing appropriation by the legislature, pursuant to this article and  
39 section eighty-nine-h of the state finance law, or the authorized repre-  
40 sentative of such officer, to inspect any return filed under this arti-  
41 cle, or may furnish to such officer or the officer's authorized repre-  
42 sentative an abstract of any such return or supply such officer or such  
43 representative with information concerning an item contained in any such  
44 return, or disclosed by any investigation of tax liability under this  
45 article.

46 2. The commissioner, in his or her discretion and pursuant to such  
47 rules and regulations as he or she may adopt, may permit [~~the commis-~~  
48 ~~sioner of internal revenue of the United States, or~~] the appropriate  
49 officers of any other state which regulates or taxes medical [~~marihuana~~  
50 cannabis], or the duly authorized representatives of such [~~commissioner~~  
51 ~~or of any such~~] officers, to inspect returns or reports made pursuant to  
52 this article, or may furnish to such [~~commissioner or~~] other officers,  
53 or duly authorized representatives, a copy of any such return or report  
54 or an abstract of the information therein contained, or any portion  
55 thereof, or may supply [~~such commissioner or~~] any such officers or such  
56 representatives with information relating to the business of a regis-

1 tered organization making returns or reports hereunder. The commissioner  
 2 may refuse to supply information pursuant to this subdivision [~~to the~~  
 3 ~~commissioner of internal revenue of the United States or~~] to the offi-  
 4 cers of any other state if the statutes [~~of the United States, or~~] of  
 5 the state represented by such officers, do not grant substantially simi-  
 6 lar privileges to the commissioner, but such refusal shall not be manda-  
 7 tory. Information shall not be supplied to [~~the commissioner of internal~~  
 8 ~~revenue of the United States or~~] the appropriate officers of any other  
 9 state which regulates or taxes medical [~~marihuana~~] cannabis, or the duly  
 10 authorized representatives [~~of such commissioner or~~] of any of such  
 11 officers, unless such [~~commissioner,~~] officer or other representatives  
 12 shall agree not to divulge or make known in any manner the information  
 13 so supplied, but such officers may transmit such information to their  
 14 employees or legal representatives when necessary, who in turn shall be  
 15 subject to the same restrictions as those hereby imposed upon such  
 16 [~~commissioner,~~] officer or other representatives.

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

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

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

25 ARTICLE 20-C

26 TAX ON ADULT-USE CANNABIS PRODUCTS

27 Section 492. Definitions.

28 493. Tax on cannabis.

29 494. Registration and renewal.

30 495. Returns and payment of tax.

31 496. Returns to be kept secret.

32 § 492. Definitions. For purposes of this article, the following defi-  
 33 nitions shall apply:

34 (a) "Cannabis" means all parts of a plant of the genus cannabis,  
 35 whether growing or not; the seeds thereof; the resin extracted from any  
 36 part of the plant; and every compound, manufacture, salt, derivative,  
 37 mixture, or preparation of the plant, its seeds or resin. For purposes  
 38 of this article, cannabis does not include medical cannabis or hemp  
 39 extract as defined in section three of the cannabis law.

40 (b) "Cannabis flower" means the flower of a plant of the genus canna-  
 41 bis that has been harvested, dried, and cured, and prior to any process-  
 42 ing whereby the plant material is transformed into a concentrate,  
 43 including, but not limited to, concentrated cannabis, or an edible or  
 44 topical product containing cannabis or concentrated cannabis and other  
 45 ingredients. Cannabis flower excludes leaves and stem.

46 (c) "Cannabis trim" means all parts of a plant of the genus cannabis  
 47 other than cannabis flowers that have been harvested, dried, and cured,  
 48 and prior to any processing whereby the plant material is transformed  
 49 into a concentrate, including, but not limited to, concentrated canna-  
 50 bis, or an edible or topical product containing cannabis and other  
 51 ingredients.

52 (d) "Cannabis product" or "adult use cannabis" means a cannabis prod-  
 53 uct as defined in section three of the cannabis law. For purposes of  
 54 this article, under no circumstances shall adult-use cannabis product

1 include medical cannabis or hemp extract as defined in section three of  
2 the cannabis law.

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

8 (f) "Wholesaler" means any person that sells or transfers adult-use  
9 cannabis products to a retail dispensary licensed pursuant to section  
10 seventy-two of the cannabis law. Where the cultivator or processor is  
11 also the retail dispensary, the retail dispensary shall be the whole-  
12 saler for purposes of this article.

13 (g) "Cultivation" has the same meaning as described in subdivision two  
14 of section sixty-eight of the cannabis law.

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

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

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

24 (k) "Processor" has the same meaning as described in subdivision two  
25 of section sixty-nine of the cannabis law.

26 § 493. Tax on cannabis. (a) There is hereby imposed and shall be paid  
27 a tax on the cultivation of cannabis flower and cannabis trim at the  
28 rate of one dollar per dry-weight gram of cannabis flower and twenty-  
29 five cents per dry-weight gram of cannabis trim. Where the wholesaler is  
30 not the cultivator, such tax shall be collected from the cultivator by  
31 the wholesaler at the time such flower or trim is transferred to the  
32 wholesaler. Where the wholesaler is the cultivator, such tax shall be  
33 paid by the wholesaler and shall accrue at the time of sale or transfer  
34 to a retail dispensary. Where the cultivator is also the retail dispen-  
35 sary, such tax shall accrue at the time of the sale to the retail  
36 customer.

37 (b) In addition to the tax imposed by subdivision (a) of this section,  
38 there is hereby imposed a tax on the sale or transfer by a wholesaler to  
39 a retail dispensary of adult-use cannabis products, to be paid by such  
40 wholesaler. Where the wholesaler is not the retail dispensary, such tax  
41 shall be at the rate of eighteen percent of the invoice price charged by  
42 the wholesaler to a retail dispensary, and shall accrue at the time of  
43 such sale. Where the wholesaler is the retail dispensary, such tax shall  
44 be at the rate of eighteen percent of the price charged to the retail  
45 customer and shall accrue at the time of such sale.

46 (c) In addition to the taxes imposed by subdivisions (a) and (b) of  
47 this section, there is hereby imposed a tax on the sale or transfer by a  
48 wholesaler to a retail dispensary of adult-use cannabis products, in  
49 trust for and on account of the county in which the retail dispensary is  
50 located. Such tax shall be paid by the wholesaler and shall accrue at  
51 the time of such sale. Where the wholesaler is not the retail dispen-  
52 sary, such tax shall be at the rate of four percent of the invoice price  
53 charged by the wholesaler to a retail dispensary. Where the wholesaler  
54 is the retail dispensary, such tax shall be at the rate of four percent  
55 of the price charged to the retail customer.

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

4 § 494. Registration and renewal. (a) Every wholesaler must file with  
5 the commissioner a properly completed application for a certificate of  
6 registration before engaging in business. In order to apply for such  
7 certificate of registration, such person must first be in possession of  
8 a valid license from the office of cannabis management. An application  
9 for a certificate of registration must be submitted electronically, on a  
10 form prescribed by the commissioner, and must be accompanied by a non-  
11 refundable application fee of six hundred dollars. A certificate of  
12 registration shall not be assignable or transferable and shall be  
13 destroyed immediately upon such person ceasing to do business as speci-  
14 fied in such certificate, or in the event that such business never  
15 commenced.

16 (b) The commissioner shall refuse to issue a certificate of registra-  
17 tion to any applicant and shall revoke the certificate of registration  
18 of any such person who does not possess a valid license from the office  
19 of cannabis management. The commissioner may refuse to issue a certif-  
20 icate of registration to any applicant where such applicant: (1) has a  
21 past-due liability as that term is defined in section one hundred seven-  
22 ty-one-v of this chapter; (2) has had a certificate of registration  
23 under this article, a license from the office of cannabis management, or  
24 any license or registration provided for in this chapter revoked within  
25 one year from the date on which such application was filed; (3) has been  
26 convicted of a crime provided for in this chapter within one year from  
27 the date on which such application was filed of the certificate's issu-  
28 ance; (4) willfully fails to file a report or return required by this  
29 article; (5) willfully files, causes to be filed, gives or causes to be  
30 given a report, return, certificate or affidavit required by this arti-  
31 cle which is false; or (6) willfully fails to collect or truthfully  
32 account for or pay over any tax imposed by this article.

33 (c) A certificate of registration shall be valid for the period speci-  
34 fied thereon, unless earlier suspended or revoked. Upon the expiration  
35 of the term stated on a certificate of registration, such certificate  
36 shall be null and void.

37 (d) Every holder of a certificate of registration must notify the  
38 commissioner of changes to any of the information stated on the certif-  
39 icate, or of changes to any information contained in the application for  
40 the certificate of registration. Such notification must be made on or  
41 before the last day of the month in which a change occurs and must be  
42 made electronically on a form prescribed by the commissioner.

43 (e) Every holder of a certificate of registration under this article  
44 shall be required to reapply prior to such certificate's expiration,  
45 during a reapplication period established by the commissioner. Such  
46 reapplication period shall not occur more frequently than every two  
47 years. Such reapplication shall be subject to the same requirements and  
48 conditions, including grounds for refusal, as an initial application,  
49 including the payment of the application fee.

50 (f) Penalties. A person to whom adult-use cannabis products have been  
51 transferred or who sells adult-use cannabis products without a valid  
52 certificate of registration pursuant to subdivision (a) of this section  
53 shall be subject to a penalty of five hundred dollars for each month or  
54 part thereof during which such person continues to possess adult-use  
55 cannabis products that have been transferred to such person or who sells  
56 such products after the expiration of the first month after which such

1 person operates without a valid certificate of registration, not to  
2 exceed ten thousand dollars in the aggregate.

3 § 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on  
4 or before the twentieth day of the month, file with the commissioner a  
5 return on forms to be prescribed by the commissioner, showing the total  
6 weight of cannabis flower and cannabis trim subject to tax pursuant to  
7 subdivision (a) of section four hundred ninety-three of this article and  
8 the total amount of tax due thereon in the preceding calendar month, and  
9 the total amount of tax due under subdivisions (b) and (c) of such  
10 section on its sales to a retail dispensary during the preceding calen-  
11 dar month, along with such other information as the commissioner may  
12 require. Every person required to file a return under this section  
13 shall, at the time of filing such return, pay to the commissioner the  
14 total amount of tax due for the period covered by such return. If a  
15 return is not filed when due, the tax shall be due on the day on which  
16 the return is required to be filed.

17 2. The wholesaler shall maintain such records in such form as the  
18 commissioner may require regarding such items as: where the wholesaler  
19 is not the cultivator, the weight of the cannabis flower and cannabis  
20 trim transferred to it by a cultivator or, where the wholesaler is the  
21 cultivator, the weight of such flower and trim produced by it; the  
22 geographic location of every retail dispensary to which it sold adult-  
23 use cannabis products; and any other record or information required by  
24 the commissioner. This information must be kept by such person for a  
25 period of three years after the return was filed.

26 (b) The provisions of article twenty-seven of this chapter shall apply  
27 to the tax imposed by this article in the same manner and with the same  
28 force and effect as if the language of such article had been incorpo-  
29 rated in full into this section and had expressly referred to the tax  
30 imposed by this article, except to the extent that any provision of such  
31 article is either inconsistent with a provision of this article or is  
32 not relevant to this article.

33 (c) 1. All taxes, interest, and penalties collected or received by the  
34 commissioner under this article shall be deposited and disposed of  
35 pursuant to the provisions of section one hundred seventy-one-a of this  
36 chapter, provided that an amount equal to one hundred percent collected  
37 under this article less any amount determined by the commissioner to be  
38 reserved by the comptroller for refunds or reimbursements shall be paid  
39 by the comptroller to the credit of the cannabis revenue fund estab-  
40 lished by section ninety-nine-hh of the state finance law. Of the total  
41 revenue collected or received under this article, the comptroller shall  
42 retain such amount as the commissioner may determine to be necessary for  
43 refunds. The commissioner is authorized and directed to deduct from the  
44 registration fees under subdivision (a) of section four hundred ninety-  
45 four of this article, before deposit into the cannabis revenue fund  
46 designated by the comptroller, a reasonable amount necessary to effectuate  
47 refunds of appropriations of the department to reimburse the depart-  
48 ment for the costs incurred to administer, collect, and distribute the  
49 taxes imposed by this article.

50 2. Notwithstanding the foregoing, the commissioner shall certify to  
51 the comptroller the total amount of tax, penalty and interest received  
52 by him or her on account of the tax imposed by subdivision (c) of  
53 section four hundred ninety-three of this article in trust for and on  
54 account of each county in which a retail dispensary is located. On or  
55 before the twelfth day of each month, the comptroller, after reserving  
56 such refund fund, shall pay to the appropriate fiscal officer of each

1 such county the taxes, penalties and interest received and certified by  
2 the commissioner for the preceding calendar month.

3 § 496. Returns to be kept secret. (a) Except in accordance with proper  
4 judicial order or as in this section or otherwise provided by law, it  
5 shall be unlawful for the commissioner, any officer or employee of the  
6 department, or any officer or person who, pursuant to this section, is  
7 permitted to inspect any return or report or to whom a copy, an abstract  
8 or a portion of any return or report is furnished, or to whom any infor-  
9 mation contained in any return or report is furnished, or any person who  
10 in any manner may acquire knowledge of the contents of a return or  
11 report filed pursuant to this article to divulge or make known in any  
12 manner the content or any other information related to the business of  
13 the wholesaler contained in any return or report required under this  
14 article. The officers charged with the custody of such returns or  
15 reports shall not be required to produce any of them or evidence of  
16 anything contained in them in any action or proceeding in any court,  
17 except on behalf of the state, the office of cannabis management, or the  
18 commissioner in an action or proceeding involving the collection of tax  
19 due under this chapter to which the state or the commissioner is a party  
20 or a claimant or on behalf of any party to any action or proceeding  
21 under the provisions of this article, when the returns or the reports or  
22 the facts shown thereby are directly involved in such action or proceed-  
23 ing, or in an action or proceeding related to the regulation or taxation  
24 of adult-use cannabis products on behalf of officers to whom information  
25 shall have been supplied as provided in this section, in any of which  
26 events the courts may require the production of, and may admit in  
27 evidence so much of said returns or reports or of the facts shown there-  
28 by as are pertinent to the action or proceeding and no more. Nothing  
29 herein shall be construed to prohibit the commissioner, in his or her  
30 discretion, from allowing the inspection or delivery of a certified copy  
31 of any return or report filed under this article or of any information  
32 contained in any such return or report by or to a duly authorized offi-  
33 cer or employee of the office of cannabis management or by or to the  
34 attorney general or other legal representatives of the state when an  
35 action shall have been recommended or commenced pursuant to this chapter  
36 in which such returns or reports or the facts shown thereby are directly  
37 involved; or the inspection of the returns or reports required under  
38 this article by the comptroller or duly designated officer or employee  
39 of the state department of audit and control, for purposes of the audit  
40 of a refund of any tax paid by the wholesaler under this article; nor to  
41 prohibit the delivery to such person or a duly authorized representative  
42 of such person, a certified copy of any return or report filed by such  
43 person pursuant to this article, nor to prohibit the publication of  
44 statistics so classified as to prevent the identification of particular  
45 returns or reports and the items thereof. This section shall also not be  
46 construed to prohibit the disclosure, for tax administration purposes,  
47 to the division of the budget and the office of the state comptroller,  
48 of information aggregated from the returns filed by all wholesalers  
49 purchasing and selling such products in the state, whether the number of  
50 such persons is one or more. Provided further that, notwithstanding the  
51 provisions of this subdivision, the commissioner may in his or her  
52 discretion, permit the proper officer of any county entitled to receive  
53 any distribution of the monies received on account of the tax imposed by  
54 subdivision (c) of section four hundred ninety-three of this article, or  
55 the authorized representative of such officer, to inspect any return  
56 filed under this article, or may furnish to such officer or the offi-



1 cer's authorized representative an abstract of any such return or supply  
2 such officer or representative with information concerning an item  
3 contained in any such return, or disclosed by any investigation of tax  
4 liability under this article.

5 (b) The commissioner, in his or her discretion, may permit the appro-  
6 prate officers of any other state that regulates or taxes cannabis or  
7 the duly authorized representatives of such commissioner or of any such  
8 officers, to inspect returns or reports made pursuant to this article,  
9 or may furnish to the commissioner or other officer, or duly authorized  
10 representatives, a copy of any such return or report or an abstract of  
11 the information therein contained, or any portion thereof, or may supply  
12 such commissioner or any such officers or such representatives with  
13 information relating to the business of a wholesaler making returns or  
14 reports hereunder solely for purposes of tax administration. The commis-  
15 sioner may refuse to supply information pursuant to this subdivision to  
16 the officers of any other state if the statutes of the state represented  
17 by such officers do not grant substantially similar privileges to the  
18 commissioner, but such refusal shall not be mandatory. Information shall  
19 not be supplied to the appropriate officers of any state that regulates  
20 or taxes cannabis, or the duly authorized representatives of such  
21 commissioner or of any such officers, unless such commissioner, officer,  
22 or other representatives shall agree not to divulge or make known in any  
23 manner the information so supplied, but such officers may transmit such  
24 information to their employees or legal representatives when necessary,  
25 who in turn shall be subject to the same restrictions as those hereby  
26 imposed upon such commissioner, officer or other representatives.

27 (c) 1. Any officer or employee of the state who willfully violates the  
28 provisions of subdivision (a) or (b) of this section shall be dismissed  
29 from office and be incapable of holding any public office in the state  
30 for a period of five years thereafter.

31 2. For criminal penalties, see article thirty-seven of this chapter.

32 § 40. Subdivision (a) of section 1115 of the tax law is amended by  
33 adding a new paragraph 3-b to read as follows:

34 (3-b) Adult-use cannabis products as defined by article twenty-C of  
35 this chapter.

36 § 41. Section 12 of chapter 90 of the laws of 2014 amending the public  
37 health law, the tax law, the state finance law, the general business  
38 law, the penal law and the criminal procedure law relating to medical  
39 use of marijuana, is amended to read as follows:

40 § 12. This act shall take effect immediately ~~and~~; provided, however  
41 that sections one, three, five, six, seven-a, eight, nine, ten and elev-  
42 en of this act shall expire and be deemed repealed seven years after  
43 such date; provided that the amendments to section 171-a of the tax law  
44 made by section seven of this act shall take effect on the same date and  
45 in the same manner as section 54 of part A of chapter 59 of the laws of  
46 2014 takes effect and shall not expire and be deemed repealed; and  
47 provided, further, that the amendments to subdivision 5 of section  
48 410.91 of the criminal procedure law made by section eleven of this act  
49 shall not affect the expiration and repeal of such section and shall  
50 expire and be deemed repealed therewith.

51 § 42. The office of cannabis management, in consultation with the  
52 division of the budget, the department of taxation and finance, the  
53 department of health, office of alcoholism and substance abuse services,  
54 office of mental health, New York state police and the division of crim-  
55 inal justice services, shall conduct a study of the effectiveness of  
56 this act. Such study shall examine all aspects of this act, including

1 economic and fiscal impacts, the impact on the public health and safety  
2 of New York residents and the progress made in achieving social justice  
3 goals and toward eliminating the illegal market for cannabis products in  
4 New York. The office shall make recommendations regarding the appropri-  
5 ate level of taxation of adult-use cannabis, as well as changes, if any,  
6 necessary to improve and protect the public health and safety of New  
7 Yorkers. Such study shall be conducted two years after the effective  
8 date of this act and shall be presented to the governor, the majority  
9 leader of the senate and the speaker of the assembly, no later than  
10 October 1, 2022.

11 § 43. Section 102 of the alcoholic beverage control law is amended by  
12 adding a new subdivision 8 to read as follows:

13 8. No alcoholic beverage retail licensee shall sell cannabis, nor have  
14 or possess a license or permit to sell cannabis, on the same premises  
15 where alcoholic beverages are sold.

16 § 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the  
17 general obligations law, as added by chapter 406 of the laws of 2000,  
18 are amended to read as follows:

19 1. "Illegal drug" means any controlled substance [~~or marijuana~~] the  
20 possession of which is an offense under the public health law or the  
21 penal law.

22 4. "Grade one violation" means possession of one-quarter ounce or  
23 more, but less than four ounces, or distribution of less than one ounce  
24 of an illegal drug [~~other than marijuana, or possession of one pound or~~  
25 ~~twenty-five plants or more, but less than four pounds or fifty plants,~~  
26 ~~or distribution of less than one pound of marijuana~~].

27 5. "Grade two violation" means possession of four ounces or more, but  
28 less than eight ounces, or distribution of one ounce or more, but less  
29 than two ounces, of an illegal drug [~~other than marijuana, or possession~~  
30 ~~of four pounds or more or fifty plants or distribution of more than one~~  
31 ~~pound but less than ten pounds of marijuana~~].

32 6. "Grade three violation" means possession of eight ounces or more,  
33 but less than sixteen ounces, or distribution of two ounces or more, but  
34 less than four ounces, of a specified illegal drug [~~or possession of~~  
35 ~~eight pounds or more or seventy-five plants or more, but less than~~  
36 ~~sixteen pounds or one hundred plants, or distribution of more than five~~  
37 ~~pounds but less than ten pounds of marijuana~~].

38 7. "Grade four violation" means possession of sixteen ounces or more  
39 or distribution of four ounces or more of a specified illegal drug [~~or~~  
40 ~~possession of sixteen pounds or more or one hundred plants or more or~~  
41 ~~distribution of ten pounds or more of marijuana~~].

42 13. "Drug trafficker" means a person convicted of a class A or class B  
43 felony controlled substance [~~or marijuana offense~~] who, in connection  
44 with the criminal conduct for which he or she stands convicted,  
45 possessed, distributed, sold or conspired to sell a controlled substance  
46 [~~or marijuana~~] which, by virtue of its quantity, the person's prominent  
47 role in the enterprise responsible for the sale or distribution of such  
48 controlled substance and other circumstances related to such criminal  
49 conduct indicate that such person's criminal possession, sale or  
50 conspiracy to sell such substance was not an isolated occurrence and was  
51 part of an ongoing pattern of criminal activity from which such person  
52 derived substantial income or resources and in which such person played  
53 a leadership role.

54 § 45. Paragraph (g) of subdivision 1 of section 488 of the social  
55 services law, as added by section 1 of part B of chapter 501 of the laws  
56 of 2012, is amended to read as follows:

1 (g) "Unlawful use or administration of a controlled substance," which  
2 shall mean any administration by a custodian to a service recipient of:  
3 a controlled substance as defined by article thirty-three of the public  
4 health law, without a prescription; or other medication not approved for  
5 any use by the federal food and drug administration, except for the  
6 administration of medical cannabis when such administration is in  
7 accordance with article three of the cannabis law and any regulations  
8 promulgated thereunder as well as the rules, regulations, policies, or  
9 procedures of the state oversight agency or agencies governing such  
10 custodians. It also shall include a custodian unlawfully using or  
11 distributing a controlled substance as defined by article thirty-three  
12 of the public health law, at the workplace or while on duty.

13 § 46. Paragraphs (e) and (f) of subdivision 1 of section 490 of the  
14 social services law, as added by section 1 of part B of chapter 501 of  
15 the laws of 2012, are amended and a new paragraph (g) is added to read  
16 as follows:

17 (e) information regarding individual reportable incidents, incident  
18 patterns and trends, and patterns and trends in the reporting and  
19 response to reportable incidents is shared, consistent with applicable  
20 law, with the justice center, in the form and manner required by the  
21 justice center and, for facilities or provider agencies that are not  
22 state operated, with the applicable state oversight agency which shall  
23 provide such information to the justice center; ~~and~~

24 (f) incident review committees are established; provided, however,  
25 that the regulations may authorize an exemption from this requirement,  
26 when appropriate, based on the size of the facility or provider agency  
27 or other relevant factors. Such committees shall be composed of members  
28 of the governing body of the facility or provider agency and other  
29 persons identified by the director of the facility or provider agency,  
30 including some members of the following: direct support staff, licensed  
31 health care practitioners, service recipients and representatives of  
32 family, consumer and other advocacy organizations, but not the director  
33 of the facility or provider agency. Such committee shall meet regularly  
34 to: (i) review the timeliness, thoroughness and appropriateness of the  
35 facility or provider agency's responses to reportable incidents; (ii)  
36 recommend additional opportunities for improvement to the director of  
37 the facility or provider agency, if appropriate; (iii) review incident  
38 trends and patterns concerning reportable incidents; and (iv) make  
39 recommendations to the director of the facility or provider agency to  
40 assist in reducing reportable incidents. Members of the committee shall  
41 be trained in confidentiality laws and regulations, and shall comply  
42 with section seventy-four of the public officers law~~[-]~~; and

43 (g) safe storage, administration, and diversion prevention policies  
44 regarding controlled substances and medical cannabis.

45 § 47. Subdivision 1 of section 505 of the agriculture and markets law,  
46 as added by chapter 524 of the laws of 2014, is amended to read as  
47 follows:

48 1. "Industrial hemp" means the plant *Cannabis sativa* L. and any part  
49 of such plant, including the seeds thereof and all derivatives,  
50 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
51 whether growing or not, with a delta-9 tetrahydrocannabinol concen-  
52 tration of not more than 0.3 percent on a dry weight basis.

53 § 48. Section 506 of the agriculture and markets law, as amended by  
54 section 1 of part 00 of chapter 58 of the laws of 2017, is amended to  
55 read as follows:

1 § 506. Growth, sale, distribution, transportation and processing of  
 2 industrial hemp and products derived from such hemp permitted.  
 3 ~~[Notwithstanding any provision of law to the contrary, industrial]~~ 1.  
 4 Industrial hemp and products derived from such hemp are agricultural  
 5 products which may be grown, produced ~~[and]~~, possessed ~~[in the state,~~  
 6 ~~and]~~, sold, distributed, transported ~~[or]~~ and/or processed ~~[either]~~ in  
 7 ~~[or out of]~~ state ~~[as part of agricultural pilot programs pursuant to~~  
 8 ~~authorization under federal law and the provisions of this article~~  
 9 ~~pursuant to authorization under federal law and/or the provisions of~~  
 10 ~~this article.~~

11 ~~[Notwithstanding any provision of law to the contrary restricting the~~  
 12 ~~growing or cultivating, sale, distribution, transportation or processing~~  
 13 ~~of industrial hemp and products derived from such hemp, and subject to~~  
 14 ~~authorization under federal law, the]~~

15 2. The commissioner may authorize the growing or cultivating of indus-  
 16 trial hemp as part of agricultural pilot programs conducted by the  
 17 department and/or an institution of higher education to study the growth  
 18 and cultivation, sale, distribution, transportation and processing of  
 19 such hemp and products derived from such hemp provided that the sites  
 20 and programs used for growing or cultivating industrial hemp are certi-  
 21 fied by, and registered with, the department.

22 3. The industrial hemp used for research pursuant to this section  
 23 shall be sourced from authorized New York state industrial hemp produc-  
 24 ers. The research partner may obtain an exemption for only grain or  
 25 fiber from this requirement upon a satisfactory showing to the depart-  
 26 ment that a suitable variety of industrial hemp for the research project  
 27 is not grown in New York and/or the use of New York sourced hemp is not  
 28 practicable for the project. Hemp for extracts can only be sourced from  
 29 authorized New York state industrial hemp producers.

30 4. Nothing in this section shall limit the jurisdiction of the depart-  
 31 ment under any other article of this chapter.

32 § 49. Section 507 of the agriculture and markets law is REPEALED and a  
 33 new section 507 is added to read as follows:

34 § 507. Licensing; fees. 1. No person shall grow, process, produce,  
 35 distribute and/or sell industrial hemp or products derived from indus-  
 36 trial hemp in the state unless (a) licensed biennially by the commis-  
 37 sioner or (b) authorized by the commissioner as part of an agricultural  
 38 research pilot program established under this article.

39 2. Application for a license to grow industrial hemp shall be made  
 40 upon a form prescribed by the commissioner, accompanied by a per-acre  
 41 license fee and a non-refundable application fee of five hundred  
 42 dollars.

43 3. The applicant shall furnish evidence of his or her good character,  
 44 experience and competency, that the applicant has adequate facilities,  
 45 equipment, process controls, testing capability and security to grow  
 46 hemp.

47 4. Growers who intend to cultivate hemp for cannabinoids shall be  
 48 required to obtain licensure from the department pursuant to article  
 49 twenty-nine-A of this chapter.

50 5. A renewal application shall be submitted to the commissioner at  
 51 least sixty days prior to the commencement of the next license period.

52 § 50. Section 508 of the agriculture and markets law is REPEALED and a  
 53 new section 508 is added to read as follows:

54 § 508. Compliance action plan. If the commissioner determines, after  
 55 notice and an opportunity for hearing, that a licensee has negligently  
 56 violated a provision of and/or a regulation promulgated pursuant to this

1 article, that licensee shall be required to comply with a corrective  
2 action plan established by the commissioner to correct the violation by  
3 a reasonable date and to periodically report to the commissioner with  
4 respect to the licensee's compliance with this article for a period of  
5 no less than the next two calendar years following the commencement date  
6 of the compliance action plan. The provisions of this section shall not  
7 be applicable to research partners conducting hemp research pursuant to  
8 a research partner agreement, the terms of which shall control.

9 § 51. Section 509 of the agriculture and markets law is REPEALED and a  
10 new section 509 is added to read as follows:

11 § 509. Granting, suspending or revoking licenses. The commissioner  
12 may decline to grant a new license, may decline to renew a license, may  
13 suspend or revoke a license already granted after due notice and oppor-  
14 tunity for hearing whenever he or she finds that:

15 1. any statement contained in an application for an applicant or  
16 licensee is or was false or misleading;

17 2. the applicant or licensee does not have good character, the  
18 required experience and/or competency, adequate facilities, equipment,  
19 process controls, testing capability and/or security to produce hemp or  
20 products derived from hemp;

21 3. the applicant or licensee has failed or refused to produce any  
22 records or provide any information demanded by the commissioner reason-  
23 ably related to the administration and enforcement of this article; or

24 4. the applicant or licensee, or any officer, director, partner, hold-  
25 er of ten percent of the voting stock, or any other person exercising  
26 any position of management or control has failed to comply with any of  
27 the provisions of this article or rules and regulations promulgated  
28 pursuant thereto.

29 § 52. Section 510 of the agriculture and markets law is REPEALED and a  
30 new section 510 is added to read as follows:

31 § 510. Regulations. The commissioner may develop regulations consist-  
32 ent with the provisions of this article for the growing and cultivation,  
33 sale, distribution, and transportation of industrial hemp grown in the  
34 state, including:

35 1. the authorization or licensing of any person who may: acquire or  
36 possess industrial hemp plants or seeds; grow or cultivate industrial  
37 hemp plants; and/or sell, purchase, distribute, or transport such indus-  
38 trial hemp plants, plant parts, or seeds;

39 2. maintaining relevant information regarding land on which industrial  
40 hemp is produced within the state, including the legal description of  
41 the land, for a period of not less than three calendar years;

42 3. the procedure for testing of industrial hemp produced in the state  
43 for delta-9-tetrahydrocannabinol levels, using a representative non-de-  
44 carboxylated sample of flowers and leaves from the whole plant or other  
45 similarly reliable methods;

46 4. the procedure for effective disposal of industrial hemp plants or  
47 products derived from hemp that are produced in violation of this arti-  
48 cle;

49 5. a procedure for conducting at least a random sample of industrial  
50 hemp producers to verify that hemp is not produced in violation of this  
51 article;

52 6. any required security measures; and

53 7. such other and further regulation as the commissioner deems appro-  
54 priate or necessary.

55 § 53. Section 511 of the agriculture and markets law is REPEALED and a  
56 new section 511 is added to read as follows:

1 § 511. Prohibitions. Except as authorized by state law, and regu-  
2 lations promulgated thereunder, the growth, cultivation, processing,  
3 sale, and/or distribution of industrial hemp is prohibited.

4 § 54. Section 512 of the agriculture and markets law is REPEALED and a  
5 new section 512 is added to read as follows:

6 § 512. Industrial hemp data collection and best farming practices.  
7 The commissioner shall have the power to collect and publish data and  
8 research concerning, among other things, the growth, cultivation,  
9 production and processing methods of industrial hemp and products  
10 derived from industrial hemp and work with the New York state college of  
11 agriculture and life science at Cornell pursuant to section fifty-seven  
12 hundred twelve of the education law and the Cornell cooperative exten-  
13 sion pursuant to section two hundred twenty-four of the county law to  
14 promote best farming practices for industrial hemp which are compatible  
15 with state water quality and other environmental objectives.

16 § 55. Sections 513 and 514 of the agriculture and markets law are  
17 REPEALED and two new sections 513 and 514 are added to read as follows:

18 § 513. Access to criminal history information through the division of  
19 criminal justice services. In connection with the administration of  
20 this article, the commissioner is authorized to request, receive and  
21 review criminal history information through the division of criminal  
22 justice services (division) with respect to any person seeking a license  
23 or authorization to undertake a hemp pilot project. At the commis-  
24 ioner's request, each researcher, principal and/or officer of the applican-  
25 t shall submit to the department his or her fingerprints in such form and  
26 in such manner as specified by the division, for the purpose of conduct-  
27 ing a criminal history search and returning a report thereon in accord-  
28 ance with the procedures and requirements established by the division  
29 pursuant to the provisions of article thirty-five of the executive law,  
30 which shall include the payment of the prescribed processing fees for  
31 the cost of the division's full search and retain procedures and a  
32 national criminal history record check. The commissioner, or his or her  
33 designee, shall submit such fingerprints and the processing fee to the  
34 division. The division shall forward to the commissioner a report with  
35 respect to the applicant's previous criminal history, if any, or a  
36 statement that the applicant has no previous criminal history according  
37 to its files. Fingerprints submitted to the division of criminal justice  
38 services pursuant to this section may also be submitted to the federal  
39 bureau of investigation for a national criminal history record check. If  
40 additional copies of fingerprints are required, the applicant shall  
41 furnish them upon request.

42 § 514. Aids to enforcement. 1. The commissioner shall have full access  
43 to all premises, buildings, factories, farms, vehicles, cars, boats,  
44 airplanes, vessels, containers, packages, barrels, boxes, and/or cans  
45 for the purpose of enforcing the provisions of this article. The commis-  
46 sioner may, at such locations, examine industrial hemp and hemp products  
47 and may open any package and/or container reasonably believed to contain  
48 industrial hemp or hemp products, to determine whether such industrial  
49 hemp or hemp products follow applicable law or regulation.

50 2. A search warrant shall be issued by any court to which application  
51 is made therefor, whenever it shall be made to appear to such court that  
52 a licensee has: refused to permit any industrial hemp to be inspected or  
53 samples taken therefrom; refused to permit access to any premises, or  
54 place where licensed activities are conducted; and/or refused or  
55 prevented access thereto by any inspector of the department and that  
56 such inspector has reasonable grounds to believe that such person has

1 any industrial hemp in his or her possession, or under his or her  
2 control and/or is in violation of the provisions or regulations of this  
3 article. In such a case, a warrant shall be issued in the name of the  
4 people, directed to a police officer, commanding him or her to: (a)  
5 search any place of business, factory, building, premises, or farm where  
6 licensed activities have occurred and any vehicle, boat, vessel,  
7 container, package, barrel, box, tub or can, containing, or believed to  
8 contain industrial hemp in the possession or under the control of any  
9 person who shall refuse to allow access to such hemp for inspection or  
10 sampling, (b) permit the inspection and sampling of any industrial hemp  
11 found in the execution of the warrant, as the officer applying for the  
12 search warrant shall designate when the same is found, by an inspector  
13 or a department official authorized by the commissioner or by this chap-  
14 ter, and/or (c) permit access to any place where access is refused or  
15 prevented, and to allow and enable a department inspector or other  
16 department official to conduct an inspection of the place. The  
17 provisions of article six hundred ninety of the criminal procedure law  
18 shall apply to such warrant as far as applicable thereto. The officer to  
19 whom the warrant is delivered shall make a return in writing of his or  
20 her proceedings thereunto to the court which issued the same.

21 3. The commissioner may quarantine industrial hemp when he or she has  
22 reason to believe that such commodity does not meet the definition ther-  
23 eof, set forth in subdivision one of section five hundred five of this  
24 article, or is otherwise in violation of or does not meet a standard set  
25 forth in, applicable law or regulation. The quarantine may by the issu-  
26 ance of an order directing the owner or custodian of industrial hemp not  
27 to distribute, dispose of, or move that commodity without the written  
28 permission of the commissioner. The commissioner may also quarantine a  
29 product by placing a tag or other appropriate marking thereon or adja-  
30 cent thereto that provides and requires that such product must not be  
31 distributed, disposed of, or moved without his or her written permis-  
32 sion, or may quarantine a product by otherwise informing the owner or  
33 custodian thereof that such condition must be complied with.

34 4. The commissioner may seize industrial hemp by taking physical  
35 possession of industrial hemp when he or she has substantial evidence to  
36 believe that such commodity does not meet the definition thereof, set  
37 forth in subdivision one of section five hundred five of this article,  
38 or is otherwise in violation of, or does not meet a standard set forth  
39 in, applicable law or regulation.

40 5. Subsequent to quarantining or seizing industrial hemp, as author-  
41 ized in subdivisions three and four of this section, the commissioner  
42 shall promptly give the owner or custodian thereof an opportunity to be  
43 heard to show cause why such industrial hemp should not be ordered  
44 destroyed. The commissioner shall, thereafter, consider all the relevant  
45 evidence and information presented and shall make a determination wheth-  
46 er such industrial hemp should be ordered to be destroyed; that determi-  
47 nation may be reviewed as provided for in article seventy-eight of the  
48 civil practice law and rules.

49 § 56. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal  
50 law, as added by chapter 90 of the laws of 2014, are amended to read as  
51 follows:

52 § 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; defi-  
53 nitions.

54 The following definitions are applicable to this article:

1 1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis  
2 as defined in [~~subdivision eight of section thirty three hundred sixty~~  
3 ~~of the public health law~~] section three of the cannabis law.

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

7 § 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limita-  
8 tions.

9 The provisions of this article shall not apply to:

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

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

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

19 § 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first  
20 degree.

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

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

32 § 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the  
33 second degree.

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

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

42 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

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

52 Criminal retention of medical [~~marihuana~~] cannabis is a class A misde-  
53 meanor.

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

56 § 220.78 Witness or victim of drug or alcohol overdose.



1 1. A person who, in good faith, seeks health care for someone who is  
2 experiencing a drug or alcohol overdose or other life threatening  
3 medical emergency shall not be charged or prosecuted for a controlled  
4 substance offense under this article [~~two hundred twenty~~] or a [~~marihua-~~  
5 ~~na~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two  
6 of this title, other than an offense involving sale for consideration or  
7 other benefit or gain, or charged or prosecuted for possession of alco-  
8 hol by a person under age twenty-one years under section sixty-five-c of  
9 the alcoholic beverage control law, or for possession of drug parapher-  
10 nalia under article thirty-nine of the general business law, with  
11 respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or  
12 paraphernalia that was obtained as a result of such seeking or receiving  
13 of health care.

14 2. A person who is experiencing a drug or alcohol overdose or other  
15 life threatening medical emergency and, in good faith, seeks health care  
16 for himself or herself or is the subject of such a good faith request  
17 for health care, shall not be charged or prosecuted for a controlled  
18 substance offense under this article or a [~~marihuana~~] cannabis offense  
19 under article two hundred [~~twenty-one~~] twenty-two of this title, other  
20 than an offense involving sale for consideration or other benefit or  
21 gain, or charged or prosecuted for possession of alcohol by a person  
22 under age twenty-one years under section sixty-five-c of the alcoholic  
23 beverage control law, or for possession of drug paraphernalia under  
24 article thirty-nine of the general business law, with respect to any  
25 substance, [~~marihuana~~] cannabis, alcohol or paraphernalia that was  
26 obtained as a result of such seeking or receiving of health care.

27 3. Definitions. As used in this section the following terms shall have  
28 the following meanings:

29 (a) "Drug or alcohol overdose" or "overdose" means an acute condition  
30 including, but not limited to, physical illness, coma, mania, hysteria  
31 or death, which is the result of consumption or use of a controlled  
32 substance or alcohol and relates to an adverse reaction to or the quan-  
33 tity of the controlled substance or alcohol or a substance with which  
34 the controlled substance or alcohol was combined; provided that a  
35 patient's condition shall be deemed to be a drug or alcohol overdose if  
36 a prudent layperson, possessing an average knowledge of medicine and  
37 health, could reasonably believe that the condition is in fact a drug or  
38 alcohol overdose and (except as to death) requires health care.

39 (b) "Health care" means the professional services provided to a person  
40 experiencing a drug or alcohol overdose by a health care professional  
41 licensed, registered or certified under title eight of the education law  
42 or article thirty of the public health law who, acting within his or her  
43 lawful scope of practice, may provide diagnosis, treatment or emergency  
44 services for a person experiencing a drug or alcohol overdose.

45 4. It shall be an affirmative defense to a criminal sale controlled  
46 substance offense under this article or a criminal sale of [~~marihuana~~]  
47 cannabis offense under article two hundred [~~twenty-one~~] twenty-two of  
48 this title, not covered by subdivision one or two of this section, with  
49 respect to any controlled substance or [~~marihuana~~] cannabis which was  
50 obtained as a result of such seeking or receiving of health care, that:

51 (a) the defendant, in good faith, seeks health care for someone or for  
52 him or herself who is experiencing a drug or alcohol overdose or other  
53 life threatening medical emergency; and

54 (b) the defendant has no prior conviction for the commission or  
55 attempted commission of a class A-I, A-II or B felony under this arti-  
56 cle.

1 5. Nothing in this section shall be construed to bar the admissibility  
2 of any evidence in connection with the investigation and prosecution of  
3 a crime with regard to another defendant who does not independently  
4 qualify for the bar to prosecution or for the affirmative defense; nor  
5 with regard to other crimes committed by a person who otherwise quali-  
6 fies under this section; nor shall anything in this section be construed  
7 to bar any seizure pursuant to law, including but not limited to pursu-  
8 ant to section thirty-three hundred eighty-seven of the public health  
9 law.

10 6. The bar to prosecution described in subdivisions one and two of  
11 this section shall not apply to the prosecution of a class A-I felony  
12 under this article, and the affirmative defense described in subdivision  
13 four of this section shall not apply to the prosecution of a class A-I  
14 or A-II felony under this article.

15 § 58. Subdivision 1 of section 260.20 of the penal law, as amended by  
16 chapter 362 of the laws of 1992, is amended as follows:

17 1. He knowingly permits a child less than eighteen years old to enter  
18 or remain in or upon a place, premises or establishment where sexual  
19 activity as defined by article one hundred thirty, two hundred thirty or  
20 two hundred sixty-three of this ~~[chapter] part~~ or activity involving  
21 controlled substances as defined by article two hundred twenty of this  
22 ~~[chapter or involving marihuana as defined by article two hundred twen-~~  
23 ~~ty one of this chapter] part~~ is maintained or conducted, and he knows or  
24 has reason to know that such activity is being maintained or conducted;  
25 or

26 § 59. Section 89-h of the state finance law, as added by chapter 90 of  
27 the laws of 2014, is amended to read as follows:

28 § 89-h. Medical ~~[marihuana]~~ cannabis trust fund. 1. There is hereby  
29 established in the joint custody of the state comptroller and the  
30 commissioner of taxation and finance a special fund to be known as the  
31 "medical ~~[marihuana]~~ cannabis trust fund."

32 2. The medical ~~[marihuana]~~ cannabis trust fund shall consist of all  
33 moneys required to be deposited in the medical ~~[marihuana]~~ cannabis  
34 trust fund pursuant to the provisions of section four hundred ninety of  
35 the tax law.

36 3. The moneys in the medical ~~[marihuana]~~ cannabis trust fund shall be  
37 kept separate and shall not be commingled with any other moneys in the  
38 custody of the commissioner of taxation and finance and the state comp-  
39 troller.

40 4. The moneys of the medical ~~[marihuana]~~ cannabis trust fund, follow-  
41 ing appropriation by the legislature, shall be allocated upon a certif-  
42 icate of approval of availability by the director of the budget as  
43 follows: (a) Twenty-two and five-tenths percent of the monies shall be  
44 transferred to the counties in New York state in which the medical  
45 ~~[marihuana]~~ cannabis was manufactured and allocated in proportion to the  
46 gross sales originating from medical ~~[marihuana]~~ cannabis manufactured  
47 in each such county; (b) twenty-two and five-tenths percent of the  
48 moneys shall be transferred to the counties in New York state in which  
49 the medical ~~[marihuana]~~ cannabis was dispensed and allocated in propor-  
50 tion to the gross sales occurring in each such county; (c) five percent  
51 of the monies shall be transferred to the office of alcoholism and  
52 substance abuse services, which shall use that revenue for additional  
53 drug abuse prevention, counseling and treatment services; and (d) five  
54 percent of the revenue received by the department shall be transferred  
55 to the division of criminal justice services, which shall use that  
56 revenue for a program of discretionary grants to state and local law

1 enforcement agencies that demonstrate a need relating to [~~title five-A~~  
2 ~~of article thirty-three of the public health law~~] article three of the  
3 cannabis law; said grants could be used for personnel costs of state and  
4 local law enforcement agencies. For purposes of this subdivision, the  
5 city of New York shall be deemed to be a county.

6 § 60. The state finance law is amended by adding three new sections  
7 99-hh, 99-ii and 99-jj to read as follows:

8 § 99-hh. New York state cannabis revenue fund. 1. There is hereby  
9 established in the joint custody of the state comptroller and the  
10 commissioner of taxation and finance a special fund to be known as the  
11 "New York state cannabis revenue fund".

12 2. Such fund shall consist of all revenues received by the department  
13 of taxation and finance, pursuant to the provisions of article eigh-  
14 teen-A of the tax law and all other moneys appropriated thereto from any  
15 other fund or source pursuant to law. Nothing contained in this section  
16 shall prevent the state from receiving grants, gifts or bequests for the  
17 purposes of the fund as defined in this section and depositing them into  
18 the fund according to law.

19 3. The moneys in such fund shall be expended for the following  
20 purposes:

21 (a) Reasonable costs incurred by the department of taxation and  
22 finance for administering and collecting the taxes imposed by this part;  
23 provided, however, such costs shall not exceed four percent of tax  
24 revenues received.

25 (b) Reasonable costs incurred by the office of cannabis management for  
26 implementing, administering, and enforcing the marihuana regulation and  
27 taxation act to the extent those costs are not reimbursed pursuant to  
28 the cannabis law. This paragraph shall remain operative through the two  
29 thousand twenty-four--two thousand twenty-five fiscal year.

30 (c) Beginning with the two thousand twenty-one--two thousand twenty-  
31 two fiscal year and continuing through the two thousand thirty--two  
32 thousand thirty-one fiscal year, the commissioner of taxation and  
33 finance shall annually disburse the following sums for the purposes of  
34 data collection and reporting:

35 (i) Seven hundred fifty thousand dollars to the office of cannabis  
36 management policy to track and report data related to the licensing of  
37 cannabis businesses, including the geographic location, structure, and  
38 function of licensed cannabis businesses, and demographic data, includ-  
39 ing race, ethnicity, and gender, of license holders. The office of  
40 cannabis management shall publish reports on its findings annually and  
41 shall make the reports available to the public.

42 (ii) Seven hundred fifty thousand dollars to the department of crimi-  
43 nal justice services to track and report data related to any infrac-  
44 tions, violations, or criminal convictions that occur under any of the  
45 remaining cannabis statutes. The department of criminal justice  
46 services shall publish reports on its findings annually and shall make  
47 the reports available to the public.

48 (iii) One million dollars to the state university of New York to  
49 research and evaluate the implementation and effect of the marihuana  
50 regulation and taxation act. No more than four percent of these monies  
51 may be used for expenses related to administrative costs of conducting  
52 such research, and to, if appropriate, make recommendations to the  
53 legislature and governor regarding possible amendments to the marihuana  
54 regulation and taxation act. The recipients of these funds shall publish  
55 reports on their findings at a minimum of every two years and shall make

1 the reports available to the public. The research funded pursuant to  
2 this subdivision shall include but not necessarily be limited to:

3 (A) the impact on public health, including health costs associated  
4 with cannabis use, as well as whether cannabis use is associated with an  
5 increase or decrease in use of alcohol or other drugs;

6 (B) the impact of treatment for cannabis use disorder and the effec-  
7 tiveness of different treatment programs;

8 (C) public safety issues related to cannabis use, including studying  
9 the effectiveness of the packaging and labeling requirements and adver-  
10 tising and marketing restrictions contained in the act at preventing  
11 underage access to and use of cannabis and cannabis products, and study-  
12 ing the health-related effects among users of varying potency levels of  
13 cannabis and cannabis products;

14 (D) cannabis use rates, maladaptive use rates for adults and youth,  
15 and diagnosis rates of cannabis-related substance use disorders;

16 (E) cannabis market prices, illicit market prices, tax structures and  
17 rates, including an evaluation of how to best tax cannabis based on  
18 potency, and the structure and function of licensed cannabis businesses;

19 (F) whether additional protections are needed to prevent unlawful  
20 monopolies or anti-competitive behavior from occurring in the cannabis  
21 industry and, if so, recommendations as to the most effective measures  
22 for preventing such behavior;

23 (G) the economic impacts in the private and public sectors, including  
24 but not necessarily limited to, job creation, workplace safety, reven-  
25 ues, taxes generated for state and local budgets, and criminal justice  
26 impacts, including, but not necessarily limited to, impacts on law  
27 enforcement and public resources, short and long term consequences of  
28 involvement in the criminal justice system, and state and local govern-  
29 ment agency administrative costs and revenue;

30 (H) whether the regulatory agencies tasked with implementing and  
31 enforcing the marijuana regulation and taxation act are doing so  
32 consistent with the purposes of the act, and whether different agencies  
33 might do so more effectively; and

34 (I) any environmental issues related to cannabis production and the  
35 criminal prohibition of cannabis production.

36 (d) One million dollars annually, for a period of three years after  
37 the effective date of this section, to the state police to expand and  
38 enhance the drug recognition expert training program and technologies  
39 utilized in the process of maintaining road safety.

40 (i) The state police, in association with the office of cannabis  
41 management, are authorized to establish a pilot program for the testing  
42 and development of new technologies to detect drivers who are driving  
43 under the influence of cannabis.

44 (ii) Pursuant to such pilot program, a law enforcement officer, who  
45 upon reasonable suspicion and belief, identifies an individual who  
46 appears to be driving under the influence of a drug as defined by  
47 section one hundred fourteen-a of the vehicle and traffic law, may, with  
48 the knowing and intelligent permission of the driver, utilize developing  
49 technologies for the purpose of identifying said drug within the system  
50 of the driver.

51 (iii) The objection to, compliance with, or results of the adminis-  
52 tration of said developing technologies may not be used against any  
53 driver for the purpose of advancing a criminal action. Additionally,  
54 saliva, or other biological material obtained from the driver shall not  
55 be admissible against the driver in any criminal proceeding, or retained  
56 for any reason.

1 (iv) The driver shall be notified of the results of any administration  
2 of said developing technologies and provided with documentation of said  
3 results.

4 (v) The pilot program established by subparagraph (i) of this para-  
5 graph shall be in effect for one year after the effective date of this  
6 section.

7 4. After the dispersal of moneys pursuant to subdivision three of this  
8 section, the remaining moneys in the fund deposited during the prior  
9 fiscal year shall be disbursed into the state lottery fund and two addi-  
10 tional sub-funds created within the cannabis revenue fund known as the  
11 drug treatment and public education fund and the community grants rein-  
12 vestment fund, as follows:

13 (a) twenty-five percent shall be deposited in the state lottery fund  
14 established by section ninety-two-c of this article; provided that such  
15 moneys shall be distributed to the department of education in accordance  
16 with subdivisions two and four of section ninety-two-c of this article  
17 and shall not be utilized for the purposes of subdivision three of such  
18 section. Monies allocated by this article may enhance, but shall not  
19 supplant, existing dedicated funds to the department of education;

20 (b) twenty-five percent shall be deposited in the drug treatment and  
21 public education fund established by section ninety-nine-ii of this  
22 article; and

23 (c) fifty percent shall be deposited in the community grants reinvest-  
24 ment fund established by section ninety-nine-jj of this article.

25 5. On or before the first day of February each year, the commissioner  
26 of taxation and finance shall provide a written report to the temporary  
27 president of the senate, speaker of the assembly, chair of the senate  
28 finance committee, chair of the assembly ways and means committee, the  
29 state comptroller and the public. Such report shall detail how the  
30 moneys of the fund were utilized during the preceding calendar year, and  
31 shall include:

32 (a) the amount of money dispersed from the fund and the process used  
33 for such disbursements;

34 (b) recipients of awards from the fund;

35 (c) the amount awarded to each recipient of an award from the fund;

36 (d) the purposes for which such awards were granted; and

37 (e) a summary financial plan for such monies which shall include esti-  
38 mates of all receipts and all disbursements for the current and succeed-  
39 ing fiscal years, along with the actual results from the prior fiscal  
40 year.

41 6. Moneys shall be payable directly from the cannabis revenue fund to  
42 the department of education.

43 § 99-ii. New York state drug treatment and public education fund. 1.  
44 There is hereby established in the joint custody of the state comp-  
45 troller and the commissioner of taxation and finance a special fund to  
46 be known as the "New York state drug treatment public education fund".

47 2. Such fund shall consist of revenues received pursuant to the  
48 provisions of section ninety-nine-hh of this article and all other  
49 moneys appropriated thereto from any other fund or source pursuant to  
50 law. Nothing contained in this section shall prevent the state from  
51 receiving grants, gifts or bequests for the purposes of the fund as  
52 defined in this section and depositing them into the fund according to  
53 law.

54 3. The moneys in such fund shall be expended to the commissioner of  
55 the office of alcoholism and substance abuse and disbursed in consulta-  
56 tion with the commissioner of health for the following purposes:

1 (a) To develop and implement a youth-focused public health education  
2 and prevention campaign, including school-based prevention, early inter-  
3 vention, and health care services and programs to reduce the risk of  
4 cannabis and other substance use by school-aged children;

5 (b) To develop and implement a statewide public health campaign  
6 focused on the health effects of cannabis and legal use, including an  
7 ongoing education and prevention campaign that educates the general  
8 public, including parents, consumers and retailers, on the legal use of  
9 cannabis, the importance of preventing youth access, the importance of  
10 safe storage and preventing secondhand cannabis smoke exposure, informa-  
11 tion for pregnant or breastfeeding women, and the overconsumption of  
12 edibles;

13 (c) To provide substance use disorder treatment programs for youth and  
14 adults, with an emphasis on programs that are culturally and gender  
15 competent, trauma-informed, evidence-based and provide a continuum of  
16 care that includes screening and assessment (substance use disorder as  
17 well as mental health), early intervention, active treatment, family  
18 involvement, case management, overdose prevention, prevention of commu-  
19 nicable diseases related to substance use, relapse management for  
20 substance use and other co-occurring behavioral health disorders, voca-  
21 tional services, literacy services, parenting classes, family therapy  
22 and counseling services, medication-assisted treatments, psychiatric  
23 medication and psychotherapy; and

24 (d) To evaluate the programs being funded to determine their effec-  
25 tiveness.

26 4. On or before the first day of February each year, the commissioner  
27 of the office of alcoholism and substance abuse services shall provide a  
28 written report to the temporary president of the senate, speaker of the  
29 assembly, chair of the senate finance committee, chair of the assembly  
30 ways and means committee, chair of the senate committee on alcoholism  
31 and drug abuse, chair of the assembly alcoholism and drug abuse commit-  
32 tee, the state comptroller and the public. Such report shall detail how  
33 the moneys of the fund were utilized during the preceding calendar year,  
34 and shall include:

35 (a) the amount of money dispersed from the fund and the award process  
36 used for such disbursements;

37 (b) recipients of awards from the fund;

38 (c) the amount awarded to each recipient of an award from the fund;

39 (d) the purposes for which such awards were granted; and

40 (e) a summary financial plan for such monies which shall include esti-  
41 mates of all receipts and all disbursements for the current and succeed-  
42 ing fiscal years, along with the actual results from the prior fiscal  
43 year.

44 5. Moneys shall be payable from the fund on the audit and warrant of  
45 the comptroller on vouchers approved and certified by the commissioner  
46 of education.

47 § 99-jj. New York state community grants reinvestment fund. 1. There  
48 is hereby established in the joint custody of the state comptroller and  
49 the commissioner of taxation and finance a special fund to be known as  
50 the "New York state community grants reinvestment fund".

51 2. Such fund shall consist of all revenues received pursuant to the  
52 provisions of section ninety-nine-hh of this article and all other  
53 moneys appropriated thereto from any other fund or source pursuant to  
54 law. Nothing contained in this section shall prevent the state from  
55 receiving grants, gifts or bequests for the purposes of the fund as

1 defined in this section and depositing them into the fund according to  
2 law.

3 3. The fund shall be governed and administered by an executive steer-  
4 ing committee of thirteen members, including a representative from the  
5 office of children and family services, the labor department, and the  
6 health department appointed by the governor, and a representative of the  
7 education department appointed by the board of regents. In addition, the  
8 majority and minority leaders of the senate and assembly shall each  
9 appoint one member to the executive steering committee, the comptroller  
10 shall appoint three additional members, and the attorney general shall  
11 appoint two additional members from relevant local government entities  
12 and community-based organizations. Every effort shall be made to ensure  
13 a balanced and diverse committee representing the regions and demograph-  
14 ics of the state, which shall have expertise in job placement, homeless-  
15 ness and housing, behavioral health and substance use disorder treat-  
16 ment, and effective rehabilitative treatment for adults and juveniles,  
17 and shall include representatives of organizations serving communities  
18 impacted by past federal and state drug policies.

19 4. The moneys in such fund shall be expended by the executive steering  
20 committee to qualified community-based nonprofit organizations and  
21 approved local government entities for the purpose of reinvesting in  
22 communities disproportionately affected by past federal and state drug  
23 policies. The grants from this program shall be used, including but not  
24 limited to, to support job placement, job skills services, adult educa-  
25 tion, mental health treatment, substance use disorder treatment, hous-  
26 ing, community banking, nutrition services, afterschool and child care  
27 services, system navigation services, legal services to address barriers  
28 to reentry, and linkages to medical care, women's health services and  
29 other community-based supportive services. The grants from this program  
30 may also be used to further support the social and economic equity  
31 program created by article four of the cannabis law and distributed  
32 through the office of cannabis management.

33 5. On or before the first day of February each year, the commissioner  
34 of the office of children and family services shall provide a written  
35 report to the temporary president of the senate, speaker of the assem-  
36 bly, chair of the senate finance committee, chair of the assembly ways  
37 and means committee, chair of the senate committee on children and fami-  
38 lies, chair of the assembly children and families committee, chair of  
39 the senate committee on labor, chair of the assembly labor committee,  
40 chair of the senate committee on health, chair of the assembly health  
41 committee, chair of the senate committee on education, chair of the  
42 assembly education committee, the state comptroller and the public. Such  
43 report shall detail how the monies of the fund were utilized during the  
44 preceding calendar year, and shall include:

45 (a) the amount of money dispersed from the fund and the award process  
46 used for such disbursements;

47 (b) recipients of awards from the fund;

48 (c) the amount awarded to each recipient of an award from the fund;

49 (d) the purposes for which such awards were granted; and

50 (e) a summary financial plan for such monies which shall include esti-  
51 mates of all receipts and all disbursements for the current and succeed-  
52 ing fiscal years, along with the actual results from the prior fiscal  
53 year.

54 6. Moneys shall be payable from the fund on the audit and warrant of  
55 the comptroller on vouchers approved and certified by the executive  
56 steering committee.

1 § 61. Severability. If any provision or term of this act is for any  
2 reason declared unconstitutional or invalid or ineffective by any compe-  
3 tent jurisdiction, such decision shall not affect the validity of the  
4 effectiveness of the remaining portions of this act or any part thereof.

5 § 62. This act shall take effect immediately; provided, however that  
6 if section 3 of part XX of chapter 59 of the laws of 2019 shall not have  
7 taken effect on or before such date then section thirty-five of this act  
8 shall take effect on the same date and in the same manner as such chap-  
9 ter of the laws of 2019 takes effect; provided, further, that sections  
10 thirty-nine and forty of this act shall take effect April 1, 2020, and  
11 shall apply on and after such date: (a) to the cultivation of cannabis  
12 flower and cannabis trim transferred by a cultivator who is not a whole-  
13 saler; (b) to the cultivation of cannabis flower and cannabis trim sold  
14 or transferred to a retail dispensary by a cultivator who is a whole-  
15 saler; and (c) to the sale or transfer of adult use cannabis products to  
16 a retail dispensary; provided, further, that the amendments to article  
17 179 of the penal law made by section fifty-six of this act shall not  
18 affect the repeal of such article and shall be deemed to be repealed  
19 therewith; provided, further, that the amendments to section 89-h of the  
20 state finance law made by section fifty-nine of this act shall not  
21 affect the repeal of such section and shall be deemed repealed there-  
22 with; and provided, further, that the amendments to subdivision 1 of  
23 section 171-a of the tax law made by section thirty-five of this act  
24 shall not affect the expiration of such subdivision and shall expire  
25 therewith, when upon such date the provisions of section thirty-six of  
26 this act shall take effect.



10 CRR-NY 1004.5  
NY-CRROFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
TITLE 10. DEPARTMENT OF HEALTH  
CHAPTER XIII. MEDICAL USE OF MARIHUANA  
PART 1004. MEDICAL USE OF MARIHUANA10 CRR-NY 1004.5  
10 CRR-NY 1004.5

## 1004.5 Application for initial registration as a registered organization.

- (a) No person or entity shall produce, grow or sell medical marihuana or hold itself out as a New York State registered organization unless it has complied with article 33 of the Public Health Law and this Part and is registered by the department.
- (b) In order to operate as a registered organization, an entity shall file an application on forms or in a manner prescribed by the commissioner. The application shall be signed by the chief executive officer duly authorized by the board of a corporate applicant, or a general partner or owner of a proprietary applicant. The application shall set forth or be accompanied by the following:
- (1) the name, address, phone and email address of the applicant;
  - (2) identification of all real property, buildings and facilities that will be used in manufacturing, as defined in section 1004.11 of this Part, and dispensing of the medical marihuana products;
  - (3) identification of all equipment that will be used to carry out the manufacturing, processing, transportation, distributing, sale and dispensing activities described in the application and operating plan;
  - (4) an operating plan that includes a detailed description of the applicant's manufacturing processes, transporting, distributing, sale and dispensing policies or procedures. The operating plan shall also include:
    - (i) a detailed description of any devices used with approved medical marihuana products to be offered or sold by the registered organization;
    - (ii) policies and procedures related to security and control measures that will be in place to prevent diversion, abuse, and other illegal or unauthorized conduct relating to medical marihuana and are consistent with provisions set forth in this Part;
    - (iii) a standard operating procedure manual for all methods used from cultivation of the medical marihuana through packaging, sealing and labeling of each lot of medical marihuana product. The procedures shall include use of good agricultural practices (GAPs) and must conform to all applicable laws and rules of New York State. Standard operating procedures shall be able to be validated to demonstrate that the applicant will be able to produce and dispense consistent and reproducible medical marihuana product such that, for each form of each brand produced, there is homogeneity, absence of contamination and reproducibility of the brand profile in each lot as defined in section 1004.11 of this Part;
    - (iv) quality assurance plans, including but not limited to plans to detect, identify and prevent dispensing errors;
    - (v) policies and procedures to document and investigate approved medical marihuana product returns, complaints and adverse events, and to provide for rapid voluntary or involuntary recalls of any lot of medical marihuana product. Such policies and procedures shall include a plan for any retesting of returned approved medical marihuana products, storage and disposal of marihuana and any manufactured medical marihuana products not passing requirements, and a requirement that adverse events and total recalls are reported to the department within 24 hours of their occurrence;
    - (vi) a quality assurance program to track contamination incidents and document the investigated source of such incidents, and the appropriate corrective action(s) taken.
    - (vii) detailed description of plans, procedures and systems adopted and maintained for tracking, recordkeeping, record retention and surveillance systems, relating to all medical marihuana at every stage including cultivating, possessing of marihuana, and manufacturing, delivery, transporting, distributing, sale and dispensing by the proposed registered organization.
    - (viii) proposed hours of operation for the manufacturing and dispensing facilities;

(5) copies of the organizational and operational documents of the applicant, including but not limited to, as applicable: the certificate of incorporation, bylaws, articles of organization, partnership agreement, operating agreement and other applicable documents and agreements, and all amendments thereto;

(6) the name, residence address and title of each of the board members, officers, managers, owners, partners, principal stakeholders, directors and any person or entity that is a member of the applicant. Each such person (if an individual, or lawful representative, if a legal entity) shall submit an affidavit with the application setting forth:

(i) any position of management or ownership during the preceding 10 years of a 10 percent or greater interest in any other business, located in or outside New York State, manufacturing or distributing drugs; and

(ii) whether such person or any such business has been convicted of a felony or had a registration or license suspended or revoked in any administrative or judicial proceeding. In addition, any managers who may come in contact with or handle medical marihuana, including medical marihuana products, shall be subject to a fingerprinting process as part of a criminal history background check in compliance with the procedures established by Division of Criminal Justice Services and submission of the applicable fee;

(7) documentation that the applicant has entered into a labor peace agreement, as required by subdivision 1 of section 3365 of the Public Health Law, with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees. The maintenance of such a labor peace agreement shall be an ongoing material condition of registration;

(8) a statement that the applicant is able to comply with all applicable State and local laws and regulations relating to the activities in which it intends to engage under the registration;

(9) copies of all applicable executed and proposed deeds, leases, and rental agreements or executed option contracts related to the organization's real property interests, that shows that the applicant possesses or has the right to use sufficient land, buildings, and other premises as specified in the application and equipment to properly carry on the activities for which registration is sought. In the alternative, the applicant shall post a bond of not less than \$2,000,000; provided, however, that if the applicant posts a bond in lieu of providing the documentation requested herein, the applicant's submission of the applicable executed deeds, leases and rental agreements shall be required prior to the issuance of a registration to the applicant, if selected; and, provided further that whenever any applicant proposes to lease premises for the activities described in its operating plan, the lease agreement shall clearly set forth as a purpose the manufacturing and/or dispensing of medical marihuana, as applicable, and include the following language:

"The landlord acknowledges that its rights of reentry into the premises set forth in this lease do not confer on it the authority to manufacture and/or dispense on the premises medical marihuana in accordance with article 33 of the Public Health Law and agrees to provide the New York State Department of Health, Mayor Erastus Corning 2nd Tower, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, N.Y. 12237, with notification by certified mail of its intent to reenter the premises or to initiate dispossess proceedings or that the lease is due to expire, at least 30 days prior to the date on which the landlord intends to exercise a right of reentry or to initiate such proceedings or at least 60 days before expiration of the lease."

(10) a financial statement setting forth all elements and details of any business transactions connected with the application, including but not limited to all agreements and contracts for consultation and/or arranging for the assistance in preparing the application;

(11) architectural program and sketches of the applicant's proposed manufacturing and dispensing facility(ies) including the following:

(i) site plans;

(ii) schematic architectural and engineering design drawings and single line sketches in an appropriate scale showing the relationship of various buildings to each other, room configurations, major exit corridors, exit stair locations, and circulation along with existing buildings if additions or alterations are part of the project;

(iii) outline specifications for the type of construction proposed including a description of energy sources, type and location of engineering systems proposed for heating, cooling, ventilation and electrical distribution, water supply and sewage;

(iv) a security plan indicating how the applicant will comply with the requirements of article 33 of the Public Health Law, this Part and any other applicable law, rule, or regulation; and

(v) the registered organization shall submit detailed floor plans indicating the activities performed in each area and security plans (physical and cyber) consistent with the requirements of section 1004.13 of this Part;

(12) a construction timetable;

(13) a statement as to whether the applicant, any controlling person of the applicant, any manager, any sole proprietor applicant, any general partner of a partnership applicant, any officer and member of the board of directors of a corporate applicant, and corporate general partner had a prior discharge in bankruptcy or was found insolvent in any court action;

(14) if any controlling person of the applicant, any manager, any sole proprietor applicant, any general partner of a partnership applicant, any officer and member of the board of directors of a corporate applicant, or corporate general partner or a combination of such persons collectively, maintains a 10 percent interest or greater in any firm, association, foundation, trust,

partnership, corporation, or other entity or if such entity maintains a 10 percent interest or greater in the applicant, and such entity will or may provide goods, leases, or services to the registered organization, the value of which is or would be \$500 or more within any one year, the name and address of the entity shall be disclosed together with a description of the goods, leases or services and the probable or anticipated cost to the registered organization;

(15) if the applicant is a corporate subsidiary or affiliate of another corporation, disclosure of the parent or affiliate corporation including the name and address of the parent or affiliate, the primary activities of the parent or affiliate, the interest in the applicant held by the parent or affiliate and the extent to which the parent will be responsible for the financial and contractual obligations of the subsidiary;

(16) the most recent certified financial statement of the applicant, audited by an independent certified public accountant and prepared in accordance with generally accepted accounting principles (GAAP) applied on a consistent basis, including a balance sheet as of the end of the applicant's last fiscal year and income statements for the past two fiscal years, or such shorter period of time as the applicant has been in operation;

(17) if construction, lease, rental or purchase of the manufacturing or dispensing facility has not been completed, a statement indicating the anticipated source and application of the funds to be used in such purchase, lease, rental or construction;

(18) a staffing plan for staff involved in activities related to the cultivation of marihuana, the manufacturing and/or dispensing of approved medical marihuana products and/or staff with oversight responsibilities for such activities, which shall include:

- (i) a senior staff member with a minimum of one year experience in good agricultural practices (GAP);
- (ii) a quality assurance officer who shall exercise oversight of the organization's practices and procedures and who has documented training and experience in quality assurance and quality control procedures;
- (iii) a requirement that all staff be 21 years of age or older;
- (iv) a requirement that all staff involved in the manufacturing be trained in and conform to general sanitary practices; and
- (v) policies and procedures to ensure that the proposed registered organization shall not employ anyone who would come in contact with or handle medical marihuana who has been convicted of any felony of sale or possession of drugs, narcotics, or controlled substances in accordance with the requirements of section 3364 of the Public Health Law.

(19) any other information as may be required by the commissioner.

(c) An application under this section may be amended while the matter is pending before the commissioner, if approved by the commissioner upon good cause shown.

(d) The applicant shall verify the truth and accuracy of the information contained in the application. The department, in its discretion, may reject an application if it determines that information contained therein is not true and accurate.

10 CRR-NY 1004.5  
Current through March 31, 2019

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10 CRR-NY 1004.10  
NY-CRROFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
TITLE 10. DEPARTMENT OF HEALTH  
CHAPTER XIII. MEDICAL USE OF MARIHUANA  
PART 1004. MEDICAL USE OF MARIHUANA10 CRR-NY 1004.10  
10 CRR-NY 1004.10

## 1004.10 Registered organizations; general requirements.

(a) In addition to the requirements in Public Health Law and as otherwise set forth in this Part, a registered organization shall:

(1) make its books, records and manufacturing and dispensing facilities available to the department or its authorized representatives for monitoring, on-site inspection, and audit purposes, including but not limited to periodic inspections and/or evaluations of facilities, methods, procedures, materials, staff and equipment to assess compliance with requirements set forth in article 33 of the Public Health Law and this Part;

(i) any deficiencies documented in a statement of findings by the department shall require that the registered organization submit a written plan of correction in a format acceptable to the department within 15 calendar days of the issue date of the statement of findings. A plan of correction shall address all deficiencies or areas of noncompliance cited in the statement of findings and shall:

(a) contain an assessment and analysis of the events and/or circumstances that led to the noncompliance;

(b) contain a procedure addressing how the registered organization intends to correct each area of noncompliance;

(c) contain an explanation of how proposed corrective actions will be implemented and maintained to ensure noncompliance does not recur;

(d) contain the proposed date by which each area of noncompliance shall be corrected;

(e) address any inspection finding which the department determines jeopardizes the immediate health, safety, or well-being of certified patients, designated caregivers or the public. Such a finding shall be deemed a critical deficiency and shall require immediate corrective action to remove the immediate risk, followed by the submission of a corrective action plan within 24 hours of notification by the department of the critical deficiency. The department will acknowledge receipt within 24 hours and respond as soon as practicable to notify if the plan is accepted or needs modification. If the corrective action plan needs modification, the registered organization shall modify the plan until it is accepted by the department;

(ii) upon written approval of the department, the registered organization shall implement the plan of correction;

(2) only manufacture and dispense approved medical marihuana products in New York State in accordance with article 33 of the Public Health Law and this Part;

(3) only manufacture and dispense approved medical marihuana products in an indoor, enclosed, secure facility located in New York State which may include greenhouses;

(4) submit approved medical marihuana product samples and manufacturing materials to the department upon request, for but not limited to, quality assurance testing or investigation of an adverse event. A subset of each lot of medical marihuana product shall be retained by the registered organization to allow for testing in the future if requested by the department and shall be stored unopened as indicated on the label and in the original packaging. This subset of medical marihuana product must be readily identifiable as belonging to its specific lot. The quantity retained shall be a statistically representative number of samples to allow for complete testing of the product at least two times and shall be retained by the registered organization for at least 30 days following the date of expiration;

(5) implement policies and procedures to notify the department within 24 hours of the following:

(i) any adverse events;

(ii) any incident involving theft, loss or possible diversion of medical marihuana products;

(iii) any suspected or known security breach or other facility event that may compromise public health and/or safety, or which requires response by public safety personnel or law enforcement; and

(iv) any vehicle accidents or incidents occurring during transport of medical marijuana products;

(6) within 10 days of the occurrence of one of the above events, the registered organization shall submit a complete written incident report to the department detailing the circumstances of the event, any corrective actions taken, and where applicable, confirmation that appropriate law enforcement authorities were notified;

(7) quarantine any lot of medical marijuana product as directed by the department, and not transport, distribute or dispense such lot unless prior approval is obtained from the department;

(8) dispose of unusable medical marijuana products that have failed laboratory testing or any marijuana used in the manufacturing process pursuant to section 1004.24 of this Part;

(9) maintain records required by article 33 of the Public Health Law and this Part for a period of five years unless otherwise stated, and make such records available to the department upon request. Such records shall include:

(i) documentation, including lot numbers where applicable, of all materials used in the manufacturing of the approved medical marijuana product to allow tracking of the materials including but not limited to soil, soil amendment, nutrients, hydroponic materials, fertilizers, growth promoters, pesticides, fungicides, and herbicides;

(ii) cultivation, manufacturing, packaging and labeling production records; and

(iii) laboratory testing results;

(10) post the certificate of registration issued by the department in a conspicuous location on the premises of each manufacturing facility and dispensing facility.

(b) Registered organizations shall not:

(1) dispense approved medical marijuana products from the same location where the marijuana is grown or manufactured;

(2) grow marijuana or produce medical marijuana at any site other than a facility or site approved by the department and set forth in the registered organization's registration;

(3) distribute products or samples at no cost except as may be allowed by the commissioner;

(4) make substantial alterations to the structure or architectural design of a manufacturing or dispensing facility without prior written approval of the department;

(5) change the composition of the entity which is the registered organization, including but not limited to, a change in sole proprietor, partner, director, stockholder, member or membership interest of the registered organization without the prior written approval of the department;

(6) materially modify or revise its operating plan, including its policies and procedures related to cultivation, processing, manufacturing, distributing or dispensing policies or procedures, without prior written approval of the department;

(7) locate a dispensing facility on the same street or avenue and within 1,000 feet of a building occupied exclusively as a school, church, synagogue or other place of worship. The measurements in this paragraph of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be used as a dispensing facility to the center of the nearest entrance of such school, church, synagogue or other place of worship; or

(8) be managed by or employ anyone who has been convicted of any felony of sale or possession of drugs, narcotics, or controlled substances provided that this provision only applies to:

(i) managers or employees who come into contact with or handle medical marijuana; and

(ii) a conviction less than 10 years (not counting time spent in incarceration) prior to being employed, for which the person has not received a certificate of relief from disabilities or a certificate of good conduct under article 23 of the Correction Law.

(c) In the event that a registered organization elects to cease operation of all permitted activities and to surrender its registration, the following provisions shall apply:

(1) The registered organization shall notify the department in writing at least 120 days prior to the anticipated date of closure of the manufacturing and each dispensing facility.

(2) Such written notice shall include a proposed plan for closure. The plan shall be subject to department approval in accordance with department protocols, and shall include timetables and describe the procedures and actions the registered organization shall take to:

(i) notify affected certified patients and designated caregivers of the closure;

(ii) properly destroy, transfer or otherwise dispose of all the registered organization's supply of medical marihuana and medical marihuana products;

(iii) maintain and make available to the department all records required to be maintained under this part for a period of five years; and

(iv) maintain compliance with these regulations and any other conditions required by the commissioner until the approved closure date.

(3) A registered organization shall take no action to close a manufacturing and dispensing facility prior to department approval of the plan for closure.

(4) A registered organization's failure to notify the department of intent to cease any operations, failure to submit an approvable plan, and/or to execute the approved plan may result in the imposition of civil penalties, not to exceed \$2,000, and shall be a basis for the department to revoke the registration of the registered organization under such terms as the department determines is appropriate based on public health and safety considerations. In addition, the department reserves the right to exercise any other remedies available to it.

(d) If a registered organization's application for renewal of registration is denied, the registered organization shall submit a proposed plan for closure in accordance with this section.

10 CRR-NY 1004.10  
Current through March 31, 2019

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# Green Growth Brands Continues Rapid Expansion with Plans to Open Over 70 New Locations at Brookfield Properties' Shopping Centers

COLUMBUS, OH, June 10, 2019 /CNW/ - Green Growth Brands Inc. (CSE: GGB) (OTCQB: GGBXF) ("GGB" or "the Company") announced today an arrangement through which the Company will open over 70 prime shop locations with potential for more at Brookfield Properties' shopping centers throughout the United States. These exciting plans will further expand GGB's physical footprint to approximately 280 total locations by the end of 2019.

"Brookfield Properties operates some of the most exciting and visited malls in the country, and we are thrilled to introduce our CBD shops to their centers," said Peter Horvath, CEO of Green Growth Brands. "We know that consumers prefer to buy personal care and beauty products from physical stores, and this partnership will allow us access to millions of consumers."

With a portfolio of over 160 best-in-class retail real estate assets, Brookfield Properties' retail properties are hubs for communities across the U.S., featuring shopping, dining, entertainment and gathering. Currently, there are seven GGB shops within the Brookfield Properties' portfolio.

"Curation of our shopping centers is fundamental to our ongoing evolution," said Sandeep Mathrani, CEO of Brookfield Properties' retail group and Vice Chairman of Brookfield Property Group. "It is our job to bring in retail offerings and experiences that today's consumer desires and this includes GGB's CBD products. GGB is at the forefront of this trend and we are pleased they will expand their reach within our portfolio."

In addition to Seventh Sense Shops, GGB is further expanding its chain of CBD-infused personal care product shops with a new prestige brand called Green Lily. Green Lily is a mindful-luxe CBD brand dedicated to empowering women. Four Green Lily locations will open in the near-future at Brookfield Properties' shopping centers.

All Green Growth Brands CBD products are sourced from U.S.-based, licensed hemp processors and are Farm Bill 2018 compliant. All products are rigorously tested and compliant with applicable requirements under the U.S. FDA, Health Canada, and EU Cosmetic Regulations, as well as the California Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65). GGB sells and distributes topical CBD products only in jurisdictions that permit such sale.

## About Green Growth Brands Inc.

Green Growth Brands creates remarkable experiences in cannabis and CBD. Led by CEO Peter Horvath and a leadership team of consumer-focused retail experts, the company's brands include CAMP, Seventh Sense Botanical Therapy, The+Source, Green Lily, Meri + Jayne, and has a licensing agreement with the Greg Norman Brand. Already boasting the strongest sales per square feet in the cannabis industry, GGB is expanding its cannabis operations throughout the U.S., its CBD presence at ShopSeventhSense.com, in malls across the country and at DSW shoe stores—and that's just the beginning. Learn more about our vision at [GreenGrowthBrands.com](http://GreenGrowthBrands.com).

## About Seventh Sense Botanical Therapy

Seventh Sense Botanical Therapy creates CBD-infused botanical body care using the finest ingredients on earth. Crafted with wellness in mind, Seventh Sense aims to make CBD an accessible part of self-care routines across the country. Discover the magic of CBD at shops across the country and online at [ShopSeventhSense.com](http://ShopSeventhSense.com).

## About Brookfield Properties

Brookfield Properties is a fully-integrated, global real estate services company, providing industry-leading portfolio management capabilities across the real estate investment strategies of Brookfield Asset Management — a global alternative asset manager with over \$365 billion in AUM.

Brookfield Properties develops and manages premier real estate with a focus on maximizing the tenant experience in addition to the investment and operational performance of the asset. We also focus on integrating leading-edge real estate technologies which enables us to be at the forefront of innovation and sustainability – benefiting not only our tenants and business partners, but also the communities in which we operate. For more information about our approach to operating and developing best-in-class real estate, please visit [brookfieldproperties.com](http://brookfieldproperties.com).

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# Green Growth Brands Partners with Simon Property Group to Launch America's First Chain of CBD Shops

*Green Growth Brands gains access to 108 prime retail locations owned by the largest shopping mall operator in the U.S.*

COLUMBUS, OH, Feb. 11, 2019 /CNW/ - Green Growth Brands Inc. (CSE: GGB) (OTCQB: GGBXF) ("GGB" or "the Company") today announced that it has entered into an agreement through which the Company will gain access to 108 prime shop locations in U.S. malls owned and operated by the Simon Property Group, Inc. (NYSE: SPG) ("Simon"). Pursuant to the arrangement, GGB will further expand its chain of CBD-infused personal care product shops under the Seventh Sense Botanical Therapy ("Seventh Sense") brand and other GGB brands. The Seventh Sense brand offers high quality CBD-infused products at affordable prices.

"Our partnership with Simon allows GGB to launch our brands and CBD products in premier shopping destinations across the U.S.," said Peter Horvath, CEO of GGB. "Our management team has had decades of experience working closely with developers and operating premium retail stores in their properties. We know this arrangement gives us access to the best locations, foot traffic, and consumers. We look forward to introducing our remarkable retail experience and line of CBD products to Simon shoppers in the near future."

Simon is the largest shopping mall operator in the United States<sup>1</sup>, and its high-profile properties include Roosevelt Field in metro New York; The Galleria in Houston, TX; and Woodbury Common Premium Outlets in Central Valley, NY. The expansive nature of the relationship with Simon makes it the first of its kind in the CBD industry and will give GGB access to entire markets of new customers at many of the nation's most productive retail locations.

"We are constantly on the lookout for cutting-edge new concepts, like the GGB shops," said John Rulli, President of Simon Malls. "We are committed to adding new and dynamic retailers and uses to our shopping destinations, and the GGB shopping experience is exactly the type of innovation our customers want and expect from us. We're excited to work on the GGB launch, and look forward to a long and deepening relationship as we build this network together."

The first shop is expected to open in March, 2019 at Castleton Square Mall in Indianapolis, Indiana. The remaining shops will be opened over the course of 2019.

In conjunction with the Simon transaction, the Company, through its wholly owned subsidiary GGB Kiosks LLC, has entered into a consulting agreement (the "Consulting Agreement") for services rendered with Simon Canada Management Ltd. ("Simon Canada"). In exchange for the services rendered under the Consulting Agreement, which relate to GGB's shop expansion strategy, the Company has issued to Simon Canada USD\$2,232,824.42 (CAN\$2,925,000) in GGB common shares and 1,000,000 common share purchase warrants of GGB with an exercise price of USD\$4.47 (CAN\$5.85), with both the common shares and the common share purchase warrants reflecting the GGB share price as of close of trading on February 7, 2019. The common shares are subject to a lock up agreement for a period of 12 months from the effective date.

GGB also announces that it has entered into an Advisory Services Agreement (the "Advisory Agreement") with J. Salter Ltd., d.b.a. Authentic Retail Concepts, Ltd. ("ARC"), for a variety of consulting services that leverage a network of strategic relationships, including Simon Property Group. As compensation for the services under the Advisory Agreement, GGB has issued to ARC USD\$2,232,824.42 (CAN\$2,925,000) in GGB common shares reflecting the GGB share price of USD\$4.47 (CAN\$5.85) as of the close of trading on February 7, 2019. The shares are subject to a lock up agreement for a period of 12 months from the effective date.

## About Simon Property Group, Inc.

SPG is a S&P 100 company, headquartered in Indianapolis, Indiana and is a global leader in the ownership of premier shopping, dining, entertainment and mixed-use destinations. Simon properties across North America, Europe, and Asia provide community gathering places for millions of people every day and generate billions in annual sales.

## About Green Growth Brands Inc.

GGB expects to dominate the cannabis and CBD market with a portfolio of emotion-driven brands that people love. Led by Peter Horvath, the GGB team is full of retail and consumer packaged goods experts with decades of experience building successful brands. Join the movement at [GreenGrowthBrands.com](http://GreenGrowthBrands.com).

## Cautionary Statements:

Certain information in this news release constitutes forward-looking statements under applicable securities law. Any statements that are contained in this news release that are not statements of historical fact may be deemed to be forward-looking statements. Forward-looking statements are often identified by terms such as "may", "should", "anticipate", "expect", "intend", "forecast" and similar expressions. Forward-looking statements necessarily involve known and unknown risks, including, without limitation, risks associated with general economic conditions; adverse industry events; marketing costs; loss of markets; future legislative and regulatory developments involving medical and recreational marijuana; inability to access sufficient capital from internal and external sources, and/or inability to access sufficient capital on favorable terms; the marijuana industry in the United States, income tax and regulatory matters; the ability of the Company to implement its business strategies, including with respect to its retail shop strategy; competition; currency and interest rate fluctuations and other risks, including those factors described under the heading "Risks Factors" in the Company's Annual Information Form dated November 26, 2018 which is available on the Company's issuer profile on SEDAR.

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<sup>1</sup> National Real Estate Investor 2018 Top Retail Owners

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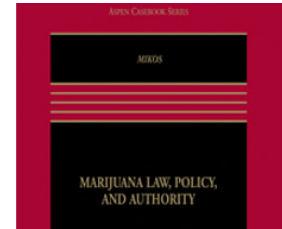
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## Marijuana Law, Policy, and Authority



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## PharmaCann v. BV Development: Another Land Use Issue Confronts Marijuana Suppliers

Posted by [mikosra](#) on Wednesday, March 21, 2018 in [News](#), [Updates](#).

As discussed in the book, marijuana suppliers have a relatively difficult time leasing real property for their operations (see pages 655-662). The problem stems from a provision of the federal Controlled Substances Act CSA that makes it a crime for a landlord to lease any real property “for the purpose of unlawfully manufacturing . . . [or] distributing” a controlled substance. 21 U.S.C. section 856(a)(2). Because of this provision, many landlords (LLs) have been reluctant to rent real property to marijuana suppliers. Even if a marijuana supplier finds a LL who’s willing to flout federal law, the supplier-tenant might have difficulty enforcing the terms of the lease against the LL. If the supplier-tenant sues the LL in court for breach of the lease agreement, the court might find that enforcement is preempted by the CSA. After all, ordering the LL to open her property to the marijuana supplier-tenant would force the LL to violate Section 856 (see page 661 n.4). In analogous situations (not involving marijuana), courts have held that state law is preempted when it imposes such a direct (impossibility) conflict with federal law.

To get around this problem, of course, a marijuana supplier could simply *buy* the property instead of leasing it. To be sure, this would put the supplier in violation of Section 856—that provision also prohibits owners/tenants from using property for manufacturing / distributing drugs. But since a marijuana supplier is already flouting sundry other federal prohibitions (e.g., against manufacturing and distributing marijuana), it is unlikely to care much about any added liability imposed by Section 856.

However, a different legal barrier created by *state* law might prevent marijuana suppliers from using property they own to manufacture or distribute marijuana. This legal barrier is called a restrictive covenant (or deed restriction). In a nutshell, a restrictive covenant is a limitation imposed on the use of land by an owner when it sells the property. For example, when a developer sell a parcel of land, it might impose a covenant that restricts how that land may be used in the future, in order to preserve the value of nearby properties the developer

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continues to own or manage. Importantly, the covenant may run with the land—i.e., it may bind all future owners of the property, and not just the first buyer.

A new Pennsylvania case, *PharmaCann vs. BV Development*, highlights how a restrictive covenant could be used to bar a marijuana supplier from opening a marijuana dispensary on land it owns. PharmaCann Penn, LLC has been licensed by Pennsylvania to distribute medical marijuana in the state. In October 2017, PharmaCann completed the purchase of a piece of real estate in Philadelphia from BV Development. PharmaCann wants to operate a medical marijuana dispensary on the property. However, Simon Property Group, a major real estate company that operates a nearby mall (Philadelphia Mills) and previously owned the purchased property, has objected to PharmaCann’s proposed use. (Simon has several other partners involved in the case, which I’ll refer to collectively as Simon et al.) Simon et al. claim that the PharmaCann’s use violates two restrictive covenants Simon et al. imposed on the property back in 1991 when it originally sold the land to Chi-Chi’s (the restaurant chain). Although Chi-Chi’s later sold the property to BV Development, the restrictive covenants run with the land (as noted above).

[Federal Marijuana Banking Bill Advances \(a Little\)](#)

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[UPDATE: Florida Passes Law Removing Ban on Smokable Marijuana](#)

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---

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---

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---

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# **Marijuana Law, Policy, and Authority**

by

**Robert A. Mikos\***

Professor of Law  
Vanderbilt University Law School

2017

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Prefatory note by author: This is the Table of Contents, introductory Chapter, and excerpt from Chapter 13 from my textbook, *MARIJUANA LAW, POLICY, AND AUTHORITY* (Aspen 2017). This-first-of its kind text is designed to guide practitioners, instructors, and through the competing approaches to regulating marijuana, the policies behind those approaches, and the power of various federal, state, and local government actors to pursue them. The introductory Chapter explains why marijuana law and policy has become such a fascinating and worthwhile field; it also provides more details about the content and features of the book. For more information about the book and for analysis of breaking developments in marijuana law and policy, visit the book's companion webpage at: <https://my.vanderbilt.edu/marijuanalaw/>.

\* Robert Mikos is Professor of Law at Vanderbilt University Law School and one of the nation's leading authorities on marijuana law and policy. He has testified, lectured, and written extensively on the struggle among state, federal, and local actors for control of marijuana law and policy, among other topics. He can be reached at [robert.mikos@vanderbilt.edu](mailto:robert.mikos@vanderbilt.edu).

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# MARIJUANA LAW, POLICY, AND AUTHORITY

**ROBERT A. MIKOS**

*Professor of Law  
Vanderbilt University Law School*



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# Contents

<i>Preface</i>	xxvii
<i>Acknowledgments</i>	xxix
<b>PART I</b>	
<b>INTRODUCTORY MATERIALS</b>	<b>1</b>
<hr/>	
<b>CHAPTER 1</b>	
<b>Introduction</b>	<b>3</b>
A. Why Care About Marijuana Law and Policy?	4
B. Using This Book	7
1. The Topics Covered in the Book	7
2. The Organization of the Book	9
3. The Features of the Book	13
<b>CHAPTER 2</b>	
<b>What Is Marijuana?</b>	<b>17</b>
A. What Is Marijuana?	17
Notes and Questions	20
B. Controversies over the Legal Definition of Marijuana	21
1. Is It Still Marijuana if It Does Not Contain THC?	21
<i>New Hampshire Hemp Council, Inc. v. Marshall</i>	22
Notes and Questions	25
2. Is Cannabis Indica Covered by the Definition of Marijuana?	27
<i>United States v. Honneus</i>	28
Notes and Questions	29
3. Is Synthetic Marijuana (K2, Spice, etc.) Considered (or Treated Like) Marijuana?	29
Notes and Questions	31

PART II

**MARIJUANA USERS**

33

CHAPTER 3

**The Regulation of Marijuana Users in Prohibition Regimes**

35

A. What Is Simple Possession?	35
Notes and Questions	36
1. Culpable Knowledge	37
a. Proof of Knowledge	38
<i>Ervin v. Virginia</i>	38
Notes and Questions	45
b. Presumptions Regarding Knowledge	45
<i>Missouri v. Bell</i>	45
Notes and Questions	46
c. Knowledge of the Substance’s Nature	47
(i) Proof of Knowledge About a Substance’s Nature	48
<i>Missouri v. Paul</i>	48
Notes and Questions	50
(ii) Knowledge of the Law	51
<i>Iowa v. Heinrichs</i>	52
Notes and Questions	54
2. Control	54
<i>Regan v. Wyoming</i>	54
Notes and Questions	57
a. Control and Ownership	57
<i>Oregon v. Fries</i>	57
<i>Iowa v. Bash</i>	60
Notes and Questions	61
b. Duration of Control	62
c. Proof of Control	63
(i) Exclusive Access	63
<i>In Re R.L.H.</i>	64
Notes and Questions	65
(ii) Non-exclusive Access	66
<i>Iowa v. Cashen</i>	66
Notes and Questions	68
<i>Iowa v. Henderson</i>	69
Notes and Questions	71
(iii) Joint Possession	72
<i>Folk v. Maryland</i>	72
Notes and Questions	74

3. Marijuana	75
Notes and Questions	75
4. Defenses	77
a. Necessity	77
<i>United States v. Randall</i>	77
Notes and Questions	80
<i>United States v. Oakland Cannabis Buyers' Coop.</i>	80
Notes and Questions	82
b. Innocent Possession	83
Notes and Questions	84
c. Unwitting Possession	84
<i>City of Kennewick v. Day</i>	85
Notes and Questions	87
B. What Are the Sanctions for Simple Possession?	87
1. Criminal Sanctions	87
<i>North Carolina v. Mitchell</i>	89
Notes and Questions	91
2. Civil Sanctions	92
<i>United States v. One Clipper Bow Ketch Nisku</i>	93
Notes and Questions	95
<i>Illinois ex rel Neal v. Ryan</i>	95
Notes and Questions	96
3. Sanctions Under Decriminalization	96
4. Actual Versus Authorized Sanctions	97
Notes and Questions	98
 CHAPTER 4	
<b>The Regulation of Marijuana Users in Legalization Regimes</b>	99
A. Who Is Allowed to Possess and Use Marijuana?	100
1. Medical Marijuana Regimes	100
a. Qualifying Condition	101
<i>Washington v. Fry</i>	101
Notes and Questions	105
<i>California v. Spark</i>	106
Notes and Questions	109
b. Recommendation	110
<i>Washington v. Shepherd</i>	111
Notes and Questions	113
c. Registration	116
Notes and Questions	117

d. Other Limitations on Eligibility	119
(i) Residency	119
(ii) Age	119
(iii) Criminal History	120
Notes and Questions	121
2. The Special Case of CBD States	123
Notes and Questions	124
3. Recreational Marijuana States	124
Notes and Questions	125
B. What Limitations Are Imposed on the Possession and Use of Marijuana?	125
1. Quantity	126
Notes and Questions	127
2. Purpose	129
Notes and Questions	130
3. Type	131
Notes and Questions	131
4. Place	133
a. Public	133
<i>New York v. Jackson</i>	134
Notes and Questions	139
b. Schools	141
Notes and Questions	142
5. Driving Under the Influence	143
a. DUI-Impaired	143
<i>Pennsylvania v. Hutchins</i>	144
<i>United States v. Davis</i>	146
Notes and Questions	149
b. DUI-Per Se	149
(i) What Is Marijuana for Purposes of DUI-per se Laws?	150
<i>Arizona ex rel. Montgomery v. Harris</i>	150
Notes and Questions	154
(ii) Proof of the Presence of Marijuana	154
<i>Illinois v. McPeak</i>	155
Notes and Questions	156
6. Other, Forgotten(?) Crimes	157
<i>California v. Young</i>	157
Notes and Questions	159
C. Legal Protections	161
1. Search	161
a. Recreational Marijuana States	162
<i>Alaska v. Crocker</i>	162
Notes and Questions	166

b. Decriminalization States	166
<i>Oregon v. Smalley</i>	166
<i>Massachusetts v. Cruz</i>	168
Notes and Questions	170
c. Medical Marijuana States	172
<i>Washington v. Fry</i>	172
Notes and Questions	177
2. Prosecution	178
a. Immunity and Affirmative Defenses	179
<i>Michigan v. Hartwick</i>	180
Notes and Questions	187
b. The Necessity Defense	189
<i>Washington v. Kurtz</i>	189
Notes and Questions	193
CHAPTER 5	
<b>Policy Toward Marijuana Users</b>	195
A. What Are Marijuana’s Benefits?	195
1. Medical Benefits	196
a. The DEA’s Position on Marijuana’s Medical Benefits	196
<i>Department of Health and Human Services, Basis for the</i>	
Recommendation for Maintaining Marijuana in Schedule I	
of the Controlled Substances Act	197
Notes and Questions	200
b. The States’ Positions on Marijuana’s Medical Benefits	203
Notes and Questions	206
2. Recreational Benefits	210
<i>Douglas Husak, For Drug Legalization</i>	210
Notes and Questions	212
B. What Are Marijuana’s Harms?	213
1. The Harms of Marijuana Use	214
<i>Department of Health and Human Services, Basis for the</i>	
Recommendation for Maintaining Marijuana in Schedule I of	
the Controlled Substances Act, (cont’d)	214
Notes and Questions	218
2. Which Harms Should Inform Policy?	222
<i>Ravin v. Alaska</i>	223
Notes and Questions	225
C. How Do Policymakers Influence Marijuana Use (or Its Harms)?	227
1. Law’s Impact on Overall Use	227
a. Legal Sanctions	227
Notes and Questions	229

b. Marijuana Prices	230
Notes and Questions	231
c. Transaction Costs	231
Notes and Questions	232
d. Individual Attitudes Toward Marijuana	232
(i) Media Campaigns	233
Notes and Questions	234
(ii) Signaling Through Law	235
Notes and Questions	236
e. Social Norms	236
Notes and Questions	238
f. Review	239
Notes and Questions	239
2. Law’s Impact on Unapproved Use	239
Notes and Questions	240
3. Driving Harms and DUI	241
<i>Andrea Roth, The Uneasy Case for Marijuana as Chemical</i>	
<i>Impairment Under a Science-Based Jurisprudence of</i>	
<i>Dangerousness</i>	243
Notes and Questions	244
D. What Are the Costs of Different Regulatory Approaches?	245
1. Fiscal Costs	245
Notes and Questions	246
2. Liberty Costs	247
a. Prohibition Regimes	248
<i>American Civil Liberties Union, The War on Marijuana in</i>	
<i>Black and White</i>	248
Notes and Questions	249
b. Legalization Regimes	249
Notes and Questions	250
CHAPTER 6	
<b>Authority over Marijuana Users</b>	253
A. What Is the Scope of the Federal Government’s Authority over	
Marijuana Possession and Use?	253
1. Federalism Constraints	253
<i>Gonzales v. Raich</i>	254
Notes and Questions	265
2. Due Process Constraints	266
<i>Raich v. Gonzales</i>	266
Notes and Questions	270
B. How Is Authority Allocated <i>Within</i> the Federal Government?	272
1. The Executive Branch’s Scheduling Authority	272
2. Limits Imposed by Treaty Obligations	274

3. The Criteria for Re-Scheduling	275
4. The Role of the DEA and FDA	275
Notes and Questions	276
C. What Authority Do the States Have over Marijuana Possession and Use?	277
1. Preemption Constraints	278
<i>Robert A. Mikos, On the Limits of Supremacy: Medical Marijuana and the States' Overlooked Power to Legalize Federal Crime</i>	278
Notes and Questions	282
2. Right to Travel Constraints	283
a. Denying Non-residents the Benefits of State Law	283
<i>Brannon Denning, One Toke over the (State) Line: Constitutional Limits on "Pot Tourism" Restrictions</i>	284
Notes and Questions	287
b. Refusing to Apply Other States' Laws	288
Notes and Questions	289
c. Regulating Residents' Out-of-State Conduct	289
Notes and Questions	289
D. How Is Authority Allocated <i>Within</i> the States?	290
1. Ballot Initiatives	291
<i>Michael Vitiello, Why the Initiative Process Is the Wrong Way to Go: Lessons We Should Have Learned from Proposition 215</i>	291
Notes and Questions	293
2. Localism	295
a. Local Regulations that Are Stricter than State Regulations	295
<i>City of North Charleston v. Harper</i>	295
Notes and Questions	297
b. Local Regulations that Are More Permissive than State Regulations	297
<i>Joslin v. Fourteenth District Judge</i>	298
Notes and Questions	298
<i>Ruggles v. Yagong</i>	299
Notes and Questions	300

## PART III

**MARIJUANA SUPPLIERS** 301

## CHAPTER 7

**The Regulation of Marijuana Suppliers in Prohibition Regimes** 303

A. What Are Marijuana Supply Offenses?	304
1. Manufacture	304
Notes and Questions	304
a. Manufacture of Hash Oil	305
<i>Utah v. Horsley</i>	305
Notes and Questions	306



b. Manufacture for Personal Use	308
<i>Massachusetts v. Palmer</i>	308
Notes and Questions	312
c. Proof of Manufacturing	313
<i>Idaho v. Vinton</i>	313
Notes and Questions	315
2. Distribute	315
a. Commercial Purpose	316
<i>Meek v. Mississippi</i>	316
Notes and Questions	318
<i>Massachusetts v. Jackson</i>	318
Notes and Questions	320
b. Distribution Between Joint Possessors	323
<i>United States v. Swiderski</i>	324
Notes and Questions	326
3. Possession with Intent to Distribute or to Manufacture	327
Notes and Questions	327
a. Proof of Intent to Distribute	328
<i>United States v. Glenn</i>	328
<i>North Carolina v. Wilkins</i>	329
Notes and Questions	330
b. Proof of <i>Defendant's</i> Intent	331
<i>Louisiana v. Kelly</i>	332
Notes and Questions	334
c. Intent to Distribute the Marijuana in Possession	334
Notes and Questions	334
4. Attempts	335
<i>Lewis v. Virginia</i>	335
Notes and Questions	337
5. Review and Double Jeopardy Issues	338
Notes and Questions	340
6. Defenses	341
a. Entrapment	341
(i) The Conventional Entrapment Defense	341
(ii) Entrapment by Estoppel and DOJ Enforcement Guidelines	343
<i>United States v. Washington</i>	343
Notes and Questions	349
<i>Deputy Attorney General James M. Cole, Guidance</i>	
Regarding Marijuana Enforcement	349
Notes and Questions	352
b. Congressional Spending Limitations	353
<i>United States v. McIntosh</i>	353
Notes and Questions	357

c. Jury Nullification	358
<i>United States v. Rosenthal</i>	358
Notes and Questions	361
B. What Are the Criminal Sanctions for Supplying Marijuana?	362
1. Calculating Sentences	362
Notes and Questions	366
2. Measuring Quantity	367
a. THC Content	367
b. Weight of Material That Is Not Marijuana	367
c. Weight of Marijuana Plants	368
Notes and Questions	369
d. What Is a “Plant”?	371
e. Aggregating Quantities	371
f. Knowledge of Quantity	372
3. Sentencing for “Fake” Marijuana	373
<i>Conner v. Indiana</i>	374
Notes and Questions	375
4. Aggravated Circumstances	375
Notes and Questions	377
5. What Sentences Are Actually Imposed?	378
Notes and Questions	379
C. What Are the Civil Sanctions for Supplying Marijuana?	379
1. Forfeiture	379
a. Property Subject to Seizure	379
Notes and Questions	380
b. Forfeiture Procedures	381
(i) Criminal Forfeiture	381
Notes and Questions	381
(ii) Civil Forfeiture	382
<i>United States v. \$61,200.00 in U.S. Currency, More or Less</i>	383
Notes and Questions	386
c. Defenses to Forfeiture Actions	386
(i) The Eighth Amendment	387
<i>United States v. Levesque</i>	387
Notes and Questions	389
(ii) The Innocent Owner Defense	389
<i>von Hofe v. United States</i>	390
Notes and Questions	392
d. The Appeal of Civil Forfeiture	394
<i>United States v. Real Property and Improvements</i>	
<i>Located at 1840 Embarcadero, Oakland, California</i>	394
Notes and Questions	395

2. Taxes	396
a. Special Marijuana Taxes	396
b. Section 280E	397
<i>Benjamin M. Leff, Tax Planning for Marijuana Dealers</i>	397
Notes and Questions	399
3. RICO	400
<i>Robert A. Mikos, A Critical Appraisal of the Department of Justice’s New Approach to Medical Marijuana</i>	400
<i>Safe Streets Alliance v. Alternative Holistic Healing, LLC</i>	403
Notes and Questions	405
4. Trademark (and Other Intellectual Property)	406
<i>In re Morgan Brown</i>	407
Notes and Questions	409
CHAPTER 8	
<b>The Regulation of Marijuana Suppliers in Legalization Regimes</b>	413
A. Personal Supply	413
1. May Users Cultivate Their Own Marijuana?	413
Notes and Questions	416
2. What Limits Are Imposed on User Cultivation?	416
Notes and Questions	417
3. May Users Grow Collectively?	418
<i>California v. Colvin</i>	418
Notes and Questions	421
4. May Lawful Users Distribute Marijuana to Other Lawful Users?	424
<i>Michigan v. McQueen</i>	425
Notes and Questions	429
5. May Anyone Assist Patients with the Cultivation and Handling of Marijuana?	429
a. Who May Serve as a Caregiver?	431
<i>California v. Mentch</i>	432
Notes and Questions	436
b. What Limits Are Imposed on Caregivers?	437
(i) Number of Patients	437
<i>Washington v. Shupe</i>	438
Notes and Questions	439
(ii) Compensation	440
Notes and Questions	440
6. What Legal Protections Do Users and Caregivers Enjoy as Suppliers?	440
B. Commercial Supply	443
1. Who Is Allowed to Produce and Sell Marijuana Commercially?	444
Notes and Questions	444

a. The Number of Licenses	445
Notes and Questions	445
b. Who Can Get a License?	446
Notes and Questions	447
c. The Role of Criminal History	447
Notes and Questions	450
d. The Role of Residency	451
Notes and Questions	452
e. Other Criteria	452
(i) Non-profit Status	452
Notes and Questions	453
(ii) Geography	453
Notes and Questions	454
2. What Regulations Do States Impose on Commercial Licensees?	455
a. Vertical Integration	455
Notes and Questions	456
b. Product Testing, Labeling, and Packaging	456
(i) Testing	456
Notes and Comments	458
(ii) Labeling and Packaging	458
Notes and Questions	461
c. Sales	462
Notes and Questions	463
d. Advertising	464
Notes and Questions	465
e. Reporting	466
Notes and Questions	467
3. How Are Licensees Disciplined?	468
a. Investigations	468
Notes and Questions	469
b. Disciplinary Process	472
Notes and Questions	474
c. Licensing Sanctions	475
Notes and Questions	477
C. Government Supply	478
Notes and Questions	479
D. Summary	480
Notes and Questions	481

CHAPTER 9

<b>Policy Toward Marijuana Suppliers</b>	483
A. How Does the Regulation of Supply Impact Use?	483
1. Supply Prohibitions and Marijuana Consumption	484
a. Prohibition, Prices, and Consumption	484
Notes and Questions	486

b.	The Magnitude of Prohibition’s Impact on Price and Consumption	486
	<i>Jonathan Caulkins, Beau Kilmer, and Mark A.R. Kleiman,</i>	
	Marijuana Legalization: What Everyone Needs to Know	487
	Notes and Questions	488
2.	Legalized Supply and Marijuana Use	489
a.	Marijuana Taxes	489
	Notes and Questions	491
(i)	Designing a Tax	491
	<i>Jonathan P. Caulkins et al., Considering Marijuana</i>	
	Legalization: Insights for Vermont and Other Jurisdictions	491
	Notes and Questions	494
(ii)	Evasion	495
	<i>Robert A. Mikos, State Taxation of Marijuana</i>	
	Distribution and Other Federal Crimes	495
	Notes and Questions	498
b.	Product Packaging and Labeling Requirements	499
	Notes and Questions	500
c.	Marijuana Advertising Restrictions	501
(i)	Do Advertising Restrictions Violate the First Amendment?	501
	<i>Alex Kreit, What Will Federal Marijuana Reform Look Like?</i>	501
	Notes and Questions	503
(ii)	Alternatives to Restricting Advertising	504
	<i>Blue Ribbon Commission on Marijuana Policy, Pathways</i>	
	Report: Policy Options for Regulating Marijuana	
	in California	504
	Notes and Questions	505
d.	Regulations Affecting Industry Structure	507
(i)	Banning Commercial Supply	507
	<i>Montana Cannabis Indus. Ass’n v. Montana</i>	507
	Notes and Questions	510
(ii)	Licensing Rules Restricting Industry Concentration	512
	Notes and Questions	512
(iii)	Government-Owned and -Operated Marijuana Suppliers	515
	<i>Jonathan P. Caulkins et al., Considering Marijuana</i>	
	Legalization: Insights for Vermont and Other	
	Jurisdictions (cont’d)	515
	Notes and Questions	517
B.	Regulatory Costs	517
1.	Fiscal Costs	518
	Notes and Questions	520
2.	Liberty Costs	520
(i)	Minority Participation in the Legal Marijuana Industry	521
	<i>Amanda Chicago Lewis, How Black People Are Being</i>	
	Shut Out of America’s Weed Boom	521

Notes and Questions	522
(ii) How Can States Boost Minority Participation in the Legal Marijuana Industry?	522
<i>The Attorney General of Maryland, Office of Counsel to the General Assembly</i> , Letter to Delegate Chris West, March 13, 2015	523
Notes and Questions	524
CHAPTER 10	
<b>Authority over Marijuana Suppliers</b>	527
A. Can the President Stop Enforcing the Federal Marijuana Ban?	527
<i>Sam Kamin</i> , Prosecutorial Discretion in the Context of Immigration and Marijuana Law Reform: The Search for a Limiting Principle	528
Notes and Questions	531
B. Are State Licensing Laws and Similar Regulations Preempted by the Federal CSA?	533
1. An Introduction to Preemption	533
<i>Robert A. Mikos</i> , Preemption Under the Controlled Substances Act	533
2. The State Suit Against Amendment 64	535
<i>States of Nebraska and Oklahoma v. State of Colorado</i> , Complaint	535
Notes and Questions	544
C. May Local Governments Ban State-Approved Production and Distribution of Marijuana?	550
1. Introduction to Local Authority	550
<i>Robert A. Mikos</i> , Marijuana Localism	550
Notes and Questions	552
2. Why Have Courts Reached Different Conclusions Regarding Local Authority to Regulate Marijuana Supply?	553
a. The View that Local Bans Are Permitted	553
<i>City of Riverside v. Inland Empire Patients Health &amp; Wellness Ctr., Inc.</i>	553
Notes and Questions	558
b. The View that Local Bans Are Preempted	558
<i>Ter Beek v. City of Wyoming</i>	558
Notes and Questions	560
D. Who <i>Should</i> Regulate the Supply of Marijuana?	560
<i>Robert A. Mikos</i> , Marijuana Localism (cont'd)	561
Notes and Questions	568

PART IV

**THIRD PARTIES** 569

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CHAPTER 11

**The Regulation of Third Parties** 571

A. Aiding and Abetting	571
<i>Washington v. Gladstone</i>	573
Notes and Questions	575
B. Conspiracy	577
<i>Massachusetts v. Camerano</i>	578
Notes and Questions	581
C. Financial Crimes	584
1. Money Laundering	587
a. Knowledge (and Willful Ignorance)	589
<i>United States v. Campbell</i>	589
Notes and Questions	593
b. Designed to Conceal	593
<i>United States v. Corchado-Peralta</i>	593
Notes and Questions	597
2. Use of Criminal Proceeds	597
Notes and Questions	598

CHAPTER 12

**The Law, Policy, and Authority Issues Confronting Professionals** 601

A. Physicians	601
1. May Physicians Be Sanctioned for Recommending Marijuana?	602
<i>Conant v. Walters</i>	602
Notes and Questions	607
2. What Must Physicians Do to Make Valid Recommendations?	610
Notes and Questions	614
3. Are Physicians Willing and Able to Recommend Marijuana?	616
Notes and Questions	618
4. Are Some Physicians Too Willing to Recommend Marijuana?	618
<i>Colorado Office of The State Auditor, Medical Marijuana</i>	
Regulatory System, Part II (June 2013)	619
Notes and Questions	624
B. Attorneys	626
1. What Services May Attorneys Provide to Marijuana Users and Suppliers?	626
a. The Restrictive Interpretation of Rule 1.2	627
<i>Ohio Supreme Court, Board of Professional Conduct, Ethical</i>	
Implications for Lawyers under Ohio’s Medical Marijuana Law	627
Notes and Questions	629

b. The Permissive Interpretation of Rule 1.2	631
<i>New York State Bar Association Committee on Professional Ethics, Counseling Clients in Illegal Conduct; Medical Marijuana Law</i>	631
Notes and Questions	634
2. May Attorneys Use or Supply Marijuana?	635
Notes and Questions	637
3. Can Federal Courts Punish Attorneys for Assisting Marijuana Users and Suppliers?	638
<i>Eli Wald et al., Representing Clients in the Marijuana Industry: Navigating State and Federal Rules</i>	639
Notes and Questions	644
 CHAPTER 13	
<b>The Law, Policy, and Authority Issues Confronting Businesses</b>	645
A. Contracting Parties, Generally	645
1. Will Courts Enforce Contracts with Marijuana Suppliers?	645
<i>Hammer v. Today's Health Care II, Co.</i>	646
Notes and Questions	648
<i>Green Earth Wellness Ctr., LLC v. Atain Specialty Ins. Co.</i>	649
Notes and Questions	651
2. What Are the Consequences If Contracts Are Unenforceable?	652
<i>Luke Scheuer, Are "Legal" Marijuana Contracts "Illegal"?</i>	652
Notes and Questions	654
B. Landlords	655
1. May Landlords Rent Property to Tenants Who Use or Supply Marijuana on It?	655
Notes and Questions	656
2. Can Landlords Ever Be Sanctioned for <i>Refusing</i> to Rent to Marijuana Users?	659
Notes and Questions	660
C. Employers	662
1. Are Employers Ever Required to Accommodate an Employee's Marijuana Use?	662
a. Express Duty to Accommodate	662
Notes and Questions	663
b. Implied Duty to Accommodate	665
<i>Ross v. RagingWire Telecommunications, Inc.</i>	665
Notes and Questions	671
2. Is a State-Imposed Duty to Accommodate Marijuana Use Preempted by Federal Law?	672
<i>Emerald Steel Fabricators, Inc. v. Bureau of Labor and Industries</i>	673
Notes and Questions	678



D. Banks	681
1. May Banks Do Business with the Marijuana Industry?	681
<i>Julie Andersen Hill, Banks, Marijuana, and Federalism</i>	681
2. <i>Should</i> Banks Be Allowed to Do Business with the Marijuana Industry?	687
Notes and Questions	688
3. Who Ultimately Decides the Marijuana Banking Question	689
<i>Julie Andersen Hill, Banks, Marijuana, and Federalism (cont'd)</i>	690
Notes and Questions	694
CHAPTER 14	
<b>The Law, Policy, and Authority Issues Confronting Government Officials</b>	697
A. Could State Officials Be Criminally Prosecuted Under the Federal CSA?	697
1. . . . for Growing and Selling Marijuana?	698
<i>United States v. Rosenthal</i>	699
Notes and Questions	701
2. . . . for Returning Marijuana?	704
<i>Office of the Attorney General, State of Michigan</i>	705
<i>The City of Garden Grove v. Kha</i>	706
Notes and Questions	708
B. Could State Officials Be Held Civilly Liable?	710
<i>County of Butte v. Superior Court</i>	711
Notes and Questions	714
C. Can State Officials Stop the Federal Government from Accessing Information They Collect About Marijuana Users/Suppliers?	716
<i>United States v. Michigan Department of Community Health</i>	716
Notes and Questions	720
D. Could State Agencies Lose Federal Funding because of State Reforms?	722
1. Schools	723
a. Higher Education	723
Notes and Questions	724
b. Primary Schools (K-12)	725
<i>Colorado Legislative Council, Student Medical Marijuana</i>	
<i>Use at School</i>	725
Notes and Questions	726
2. Public Housing	727
<i>Helen R. Kanovsky, Medical Use of Marijuana and Reasonable</i>	
<i>Accommodation in Federal Public and Assisted Housing</i>	727
Notes and Questions	731
 <i>Table of Cases</i>	 735
<i>Index</i>	741

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# Preface

This is a first-of-its-kind textbook that explores the fascinating legal issues that surround marijuana users, their suppliers, and the sundry third parties (physicians, employers, investors, etc.) who deal with them. It surveys the competing approaches jurisdictions have adopted toward regulating marijuana, the policies behind those approaches, and the power that various federal, state, and local government actors have to pursue each of them. Chapter 1 provides more details about the content and features of the book and how it can be used in the classroom or as a reference work. It also explains why marijuana law and policy is such a worthwhile area of study, even for people who never intend to work in this field.

Although marijuana can be a divisive subject, the book strives to take an evenhanded approach to all of the issues it covers. It fully explores the different sides to the controversies surrounding marijuana law and policy, not to persuade the reader that any one position is necessarily correct, but to foster lively discussion and hone the reader's ability to think more critically about issues in the field. Through this evenhanded approach, I hope the book will help improve our discourse and decision-making concerning marijuana policy, wherever that may lead us.

If you have any feedback on the book, or if you are interested in teaching about any aspect of marijuana law and policy, I would be happy to hear from you.

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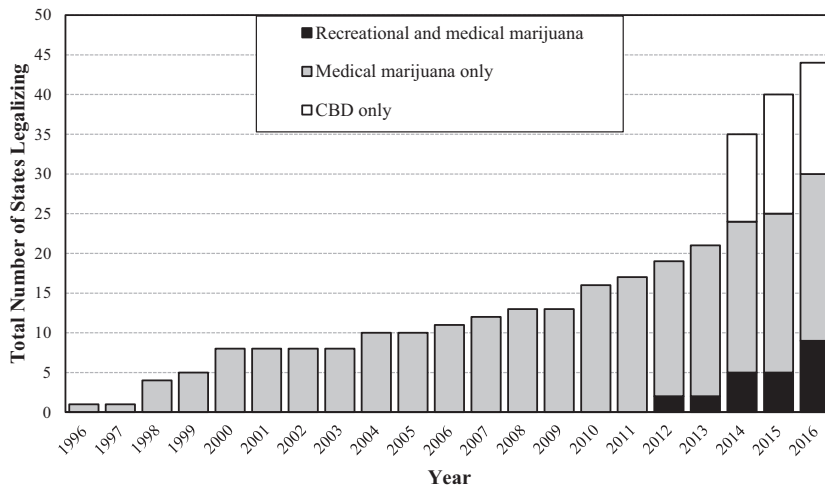
## Introduction

Following nearly two decades of regulatory reform in the states, marijuana law and policy has emerged as a robust and fascinating field of study. Abandoning the strict prohibitions that dominated the previous seven decades, and that are still in effect at the federal level, more than forty states have legalized marijuana in at least some circumstances. **Figure 1.1** displays the proliferation of state reforms from 1996 to 2016.

The chart depicts the running tally of states that have legalized (1) both the recreational and medical use of marijuana; (2) only the medical use of marijuana; and (3) only the medical use of cannabidiol (CBD), one of the chemicals found in marijuana.

The reforms have sparked lively debates about the content of marijuana regulations, the wisdom of competing regulatory approaches, and the authority of different government actors to choose among them. Who may use and supply marijuana under state law? Does legalization increase use of the drug? Could the President legalize marijuana without the passage of new congressional legislation? May the states legalize the drug while Congress forbids it? Even so, are state licensing requirements and similar regulations

Figure 1.1. Twenty Years of Marijuana Reform in the States



preempted by federal law? These are just a few of the intriguing questions that are now being confronted in this field.

The standard law school curriculum—and even courses devoted to drug law and policy—do not begin to prepare one for such questions. This first-of-its-kind textbook in Marijuana Law, Policy, and Authority is intended to fill this gap. It guides students, teachers, and practitioners alike through the competing approaches to regulating marijuana, the policies behind those approaches, and the power of various federal, state, and local government actors to pursue them. Importantly, the book takes an evenhanded approach to these often divisive issues. It fully explores the different sides of the many controversies surrounding marijuana law and policy, not to persuade the reader that any one position is necessarily correct, but to foster lively discussion and hone the reader’s ability to think more critically about issues in the field.

The sections below provide further introduction to this burgeoning field and to the content, organization, and features of the book.

## A. WHY CARE ABOUT MARIJUANA LAW AND POLICY?

Given that you opened this book, you probably already have some inkling of why the subject matters. But because marijuana law and policy has undergone major upheavals of late, this section highlights a few reasons why this field has become so interesting and worthwhile of study.

First, and most obvious, the laws and policies governing marijuana affect a huge segment of the population. Marijuana is one of the most widely used substances in the United States. More than 44 percent of Americans aged 12 or older have tried marijuana sometime during their lives, and more than 22 million Americans are considered *regular* (i.e., past-month) users of the drug. Substance Abuse and Mental Health Services Administration, *Results from the 2014 National Survey on Drug Use and Health: Detailed Tables*, tbl. 1.12B, <https://perma.cc/LH4J-723T>. In fact, more people use marijuana than use *all other illicit substances combined*. *Id.* (estimating that 8.7 million people regularly use illicit drugs like heroin or abuse licit drugs like opioid painkillers).

The demand for marijuana has also attracted a large number of people willing to grow and distribute the drug, both licitly (at least at the state level) and illicitly. For example, as of September 2016, more than 600 vendors had obtained a license from the state of Colorado to sell medical and/or recreational marijuana. Colorado Dep’t of Revenue, *MED Licensed Facilities*, <https://perma.cc/BP55-F7JL>. These licenses sold nearly \$1 billion dollars’ worth of marijuana in 2015 alone. Ricardo Baca, *Colorado marijuana sales skyrocket to more than \$996 million in 2015*, *The Cannabist* (Feb. 9, 2016).

Figure 1.2. Map of Licensed Marijuana Stores in Downtown Denver, Colorado



But users and their suppliers are not the only ones who are affected by the laws and policies governing marijuana. A broad array of third parties who interact with users and suppliers—including physicians, lawyers, banks, schools, universities, landlords, insurers, investors, and employers, among others—are increasingly being drawn into the ambit of this field. For example, physicians are being asked to recommend marijuana to patients, a necessary step for those patients to obtain the legal protections created by state medical marijuana laws. Firms are being asked to accommodate their employees’ medical use of marijuana, much as they accommodate their use of other state-approved drugs. Banks are being asked to provide loans and payment services to licensed marijuana growers and distributors, just as they do for other types of businesses. Even if these third parties never participate directly in the marijuana market itself, they are nonetheless affected by the laws and policies governing the drug.

The need for informed legal advice for all of these parties—users, suppliers, and various third parties—should be abundantly clear. Marijuana is one of the most highly regulated substances in the United States, and the laws governing users, suppliers, and third parties are incredibly complex, even in (and sometimes *especially* in) states that have legalized the drug. In prohibition regimes, questions abound concerning whether sharing a joint with a friend constitutes “distribution” of the drug (and thus is subject to harsh criminal sanctions), whether DOJ enforcement guidelines provide a defense in federal marijuana prosecutions, and whether suppliers are liable in civil Racketeer Influenced and Corrupt Organizations (RICO) lawsuits, among many other matters. Though prohibition has faded in popularity, these questions have not lost their relevance. To cite just two telling statistics: police made more than 700,000 arrests for marijuana-related offenses in 2014, Fed. Bureau of Investigation, *2014 Crime in the United States*, and there are roughly 12,000 people now serving time in *federal* prisons due principally to a conviction for a marijuana offense, Bureau of Justice Statistics, *Drug Offenders in Federal Prison: Estimates of Characteristics Based on Linked Data* (Oct. 2015).

Even in jurisdictions that have legalized marijuana, the drug remains subject to a litany of regulatory restrictions. Colorado, for example, has passed more than 150 pages of civil regulations governing just the retail distribution of marijuana. See Colorado Dep’t of Revenue, Marijuana Enforcement Division, *Retail Marijuana Code*, <https://perma.cc/4F6H-6EM3>. Among many other things, Colorado’s regulations require marijuana suppliers to apply for a special license from the state; maintain detailed records of inventory; install advanced security systems; submit to 24/7 web-based video monitoring; test, package, and label products in a particular way; and verify customer eligibility to purchase marijuana. The many firms that are supplying marijuana in Colorado and elsewhere need legal advice to help them comply with these and other regulations (not to mention federal prohibitions), akin to the advice regularly provided to firms in other highly regulated industries, like energy, alcohol, gaming, and pharmaceuticals.

Indeed, the need for informed legal advice is perhaps even more acute in this field as compared to others because of questions surrounding the enforceability of many of the aforementioned regulations. Conflicts among the policies pursued by different government actors have sparked challenges to federal, state, and local marijuana regulations and have exacerbated the confusion over the legal risks and obligations faced by marijuana users, their suppliers, and various third parties. Does Congress have the constitutional power to ban the simple possession and use of marijuana? May the DOJ suspend its enforcement of the congressional ban? Do the states have the authority to

legalize possession and use of a drug that Congress strictly forbids? Even so, may they license private firms to produce and distribute the drug? May local governments ban distribution of the drug if their state allows it? May a state legislature repeal or amend a marijuana ballot initiative passed by the people of a state? Are contracts with marijuana distributors enforceable?

Not surprisingly, the legal market is already responding to the demand for advice in this field. Lawyers have developed boutique firms and practice groups dedicated to serving the market, including Vincente-Sederberg (which bills itself as the Marijuana Law Firm) and Harris-Bricken's Canna Law Group, among others. Enterprising lawyers have even founded the National Cannabis Bar Association. State bar associations have begun to issue special guidelines addressing the ethical issues that confront the growing number of lawyers practicing in the field. And a growing number of law schools are now offering courses on or related to marijuana law and policy.

Of course, marijuana law and policy also impacts other stakeholders in society besides lawyers and the people they represent. For one thing, marijuana affects the public health, for good or ill. In large part, the reforms depicted in **Figure 1.1** above reflect the belief that there is a "beneficial use for marijuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions." N.J. Code 24:6I-2(a) (establishing New Jersey's medical marijuana program). Outright prohibitions, by contrast, reflect the belief that marijuana is harmful to users and others, say, because it impairs driving, and the belief that the drug lacks any medical utility that might redeem it. *E.g.*, Dep't of Health and Human Services, *Basis for the Recommendation for Maintaining Marijuana in Schedule I of the Controlled Substances Act*, 81 Fed. Reg. 53690 (Aug. 12, 2016) (recommending against rescheduling marijuana under the federal Controlled Substances Act).

How marijuana is regulated also has a significant impact on public finances. By some estimates, circa 2010, prohibition regimes were spending between \$1.2 billion and \$6 billion combined (annually) enforcing their bans on marijuana. American Civil Liberties Union, *The War on Marijuana in Black and White*, 68-77 (2013) (surveying estimates). In contrast, some jurisdictions have reportedly turned marijuana into a net revenue *generator* for public budgets, by legalizing and taxing distribution of the drug. As an example, Colorado collected \$103 million in taxes and fees from its licensed marijuana vendors in 2015. Colorado Dep't of Revenue, *Marijuana Tax Data*, <https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data>. The possible impacts on public health and on public finance give citizens more reasons to care about this subject, even if they never plan to participate in the marijuana market themselves.

Given all of the reasons to care about marijuana law and policy, policymakers face a host of questions about how they should regulate the drug: Is marijuana beneficial? What are its harms? Which of those benefits and harms should inform policy decisions? Should marijuana be banned or allowed, and if allowed, for whom? How can jurisdictions prevent diversion of the drug to non-approved uses? How do different policies affect the use of marijuana and any harms associated with such use? What are the costs of competing approaches to regulating marijuana?

These are not idle or purely academic questions. In contrast to many other policy domains characterized by gridlock, marijuana law and policy is dynamic. **Figure 1.1** above captures just a small slice of the changes (big and small) that have been adopted in this domain in recent years, changes that have been fueled at least in part by growing

public support for regulatory reform. *E.g.*, Pew Research Center, *6 Facts About Marijuana*, <https://perma.cc/6DKN-UT47> (Apr. 14, 2015). In light of the interest the field is attracting, policymakers need to know what other jurisdictions are doing, how those regulations are performing, and what options they have the power to pursue. In other words, policymakers need informed advice, just like the people who are affected by their policies do.

A final reason why marijuana law and policy matters is that it may hold lessons for other fields as well. Marijuana law has been at the center of cutting-edge legal controversies over the President's duty to enforce the laws, the courts' obligation to apply the literal language of statutes and referenda, and the ability of private litigants to challenge state laws as preempted, among other issues. How courts and policymakers choose to resolve these controversies could have far-reaching ramifications. In fact, marijuana law can be used as a focal example to explore a host of important legal topics that are relevant for lawyers (and others) working in a range of fields and industries. Indeed, marijuana law provides a terrific vehicle for this purpose—after all, it takes little effort to explain marijuana or to get people interested in the subject.

## **B. USING THIS BOOK**

The book is designed to guide readers through the multifaceted legal and policy issues now confronting lawyers, lawmakers, judges, scholars, and students working in this emerging field. It gives readers an in-depth understanding of and ability to critically evaluate:

- the different ways of controlling the use and supply of marijuana and other substances
- the disagreements over whether marijuana use and similar behaviors should be controlled and how best to do so
- the complex battles between (and within) federal, state, and local governments for control over public policy domains, including (but hardly limited to) marijuana policy
- the interrelationship among law, policy, and authority

Although the book is written in a style that is familiar to law students and is thus well-suited for the law school classroom or as a desk reference for lawyers, it is designed to be accessible to non-law audiences as well. The book provides the non-lawyer or non-law student enough background to enable them to examine even the trickiest legal subjects. It is thus suitable for undergraduate and graduate courses across a variety of non-law disciplines, and, of course, for the reader pursuing the topic on her own.

The sections below discuss in more detail the topics covered by the book, the organization of its chapters, and its key design features.

### **1. The Topics Covered in the Book**

The book explores three broad interrelated topics: the law, policy, and governmental authority surrounding marijuana. This section briefly explains the scope of each topic and the connections among them.

**The Substantive Law.** Several chapters of the book are devoted to surveying the competing approaches to regulating marijuana-related activities. These chapters detail the legal restrictions jurisdictions impose on marijuana users, suppliers, and third parties, and the legal consequences of violating those restrictions.

The substantive law chapters divide jurisdictions into two basic categories: prohibition regimes and legalization regimes. Prohibition regimes are those that ban outright the possession, manufacture, and distribution of marijuana (and related activities); they include regimes that have decriminalized marijuana—i.e., those that have reduced the sanctions for but do not yet allow the possession of marijuana. Legalization regimes, by contrast, are those that explicitly permit at least some people to possess, manufacture, and/or distribute marijuana for medical or other purposes without sanction. Sorting jurisdictions into these two broad categories makes the discussion of the law more manageable, but the book also highlights key differences among the jurisdictions within each of these categories, such as the differences among the three types of legalization regimes depicted in **Figure 1.1** above.

**Policy.** The book also explores the policies behind the competing regulatory approaches surveyed in the substantive law chapters. The policy chapters explore the *objectives* behind different substantive rules and the beliefs (both factual and philosophical) that animate those objectives. In other words, what are lawmakers trying to accomplish and why? The policy chapters also compare the *outcomes* produced by different regulatory regimes. In other words, how well do regulations achieve their objectives and what is sacrificed by pursuing those regulations? The discussions of policy objectives and outcomes enable readers to critically evaluate and more fully comprehend the laws governing marijuana.

**Authority.** Regulatory power in the United States is diffused both across and within different levels of government. The federal government and the states both wield some authority in this field, and a variety of officials within each level of government—from members of Congress to the deputies of a local township—have influenced how that power has been exercised. But they do not always agree about how marijuana should be regulated. Indeed, their divergent views have generated extensive litigation and debate over who has the authority to determine marijuana policy, as noted in Section A above.

The chapters devoted to authority issues guide readers through these power disputes. The chapters discuss key legal doctrines in federalism, separation of powers, localism, and individual rights that illuminate how courts resolve these controversies. Just as importantly, however, these chapters also discuss the practical (i.e., *de facto*) power these same actors wield over marijuana policy. Developments in this field over the last twenty years have demonstrated the need to consider both *de jure* (i.e., formal) and *de facto* power over marijuana.

Although each of these three topics is fascinating and significant in its own right, it is also important to recognize the connections among them—a theme emphasized throughout the book. Indeed, one would be hard-pressed to grasp many of the nuances in marijuana law, policy, or authority without having some understanding of each of the other topics.

Consider just one simple example to illustrate the connections among the topics. All states that have legalized marijuana for medical purposes now require prospective users to obtain a physician’s “recommendation” to use the drug. The recommendation



requirement and what it entails are essentially *substantive law* issues: To satisfy the requirement, for example, a physician must usually diagnose her patient with a designated condition, stipulate with some degree of confidence that marijuana would improve the patient’s outlook, and submit forms to a state health agency attesting to these findings. The rationale for imposing the recommendation requirement is more of a *policy* issue: The requirement helps states limit access to marijuana. In theory, the recommendation ensures that only people who are using marijuana for *bona fide* medical purposes are shielded from criminal and civil sanctions under state law. But the reason why states require a “recommendation” as opposed to a “prescription”—a more familiar and well-tested requirement the states use to limit access to other controlled substances—stems from limitations on state and federal *authority*. The federal Drug Enforcement Agency (DEA) has threatened to punish physicians who prescribe marijuana, and the states cannot block the DEA from imposing those sanctions. But the DEA arguably cannot punish physicians for merely recommending marijuana, because a recommendation, unlike a prescription, is considered protected speech under the First Amendment (at least in the eyes of one important court). The states designed their recommendation requirement to exploit this limitation on the DEA’s power and thereby defuse the threat posed by the agency’s control over physician prescriptions. This example helps to illustrate the linkages among law, policy, and authority in this field. By highlighting such linkages, the book imparts a much richer and deeper understanding of marijuana law and policy.

## 2. The Organization of the Book

The heart of the book is divided into three parts (II-IV).<sup>1</sup> Each part explores the law, policy, and authority issues surrounding one distinct set of regulated parties: marijuana users, their suppliers, or the third parties who interact with users and suppliers. The paragraphs below highlight some of the specific topics covered in each part and the rationale behind discussing the three parties separately.

**Part II.** Part II, which includes Chapters 3-6, explores the law, policy, and authority issues that are most relevant to marijuana users. Chapter 3 begins by examining the law governing users in prohibition regimes. It elaborates on the elements of the key prohibition directed at users in such regimes, namely, bans on the simple possession of marijuana; the defenses users might raise against possession charges (e.g., the defense of necessity); and the criminal and civil sanctions that commonly attach to simple possession offenses. Chapter 4 then surveys the laws governing users in legalization regimes, including medical marijuana states, recreational marijuana states, and CBD states. It explores who is allowed to use marijuana in each type of jurisdiction, the restrictions such jurisdictions commonly impose on lawful marijuana users (e.g., bans on driving under the influence), and the different levels of protection jurisdictions provide against search, arrest, prosecution, and other government-imposed sanctions for marijuana possession or use.

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1. Part I of the book includes this introductory chapter as well as the next chapter on the definition of marijuana.

Chapter 5 turns to the policy issues raised by the use of marijuana and the regulation of marijuana users. It explores the medical/scientific debates over the harms and benefits of marijuana use, as well as the more philosophical debates over which of those harms and benefits should motivate government policy. Using social science theory and evidence, the chapter then discusses the impact of different user regulations on marijuana use and harms, as well as the comparative costs of those regulations.

Finally, Chapter 6 explores the authority of different government actors to influence the regulation of marijuana users. It first examines the federal government's authority to regulate marijuana use and possession, focusing on the limits of Congress's enumerated powers as well as the potential protections given users by the Due Process Clause of the United States Constitution. It then examines the states' power over marijuana users, focusing on their ability to *legalize* marijuana for purposes of state law, i.e., to remove the sanctions *they* previously imposed on the possession (etc.) of marijuana. The chapter also examines how authority is allocated within the federal and state governments. At the federal level, the chapter focuses on the executive branch's delegated authority to reschedule drugs under the federal Controlled Substances Act (CSA). For the states, the chapter focuses on the ability of citizens and local governments to influence state policy toward marijuana users.

**Part III.** Part III focuses on the law, policy, and authority issues surrounding marijuana *suppliers*, i.e., those who grow or distribute marijuana. Chapter 7 details the elements of and criminal sanctions imposed for key marijuana trafficking crimes in prohibition regimes, including the manufacture of marijuana, distribution of marijuana, and possession with the intent to distribute marijuana. It also explores the viability of various legal defenses, including ones based on recent Department of Justice (DOJ) enforcement guidelines and congressional budget legislation. Chapter 7 then discusses the additional costs marijuana suppliers face stemming from civil forfeiture actions, special tax impositions, private RICO suits, and the inability to register trademarks at the federal level.

In a similar fashion, Chapter 8 details the regulation of marijuana suppliers in legalization regimes. The chapter details who is allowed to grow or distribute marijuana (e.g., users, their caregivers, licensed commercial firms, etc.) and the myriad restrictions states place on the cultivation and distribution of marijuana, like those imposed by the Colorado Retail Marijuana Code noted above in Section A. Chapter 8 also details how legalization regimes supervise and discipline commercial suppliers.

Chapter 9 explores key policy issues surrounding marijuana suppliers. It builds on the discussion in Chapter 5 by exploring how various regulations directed at these *suppliers* are expected to affect marijuana *use*. The chapter also discusses the comparative costs of different supply regulations, including the net fiscal impact of state reforms.

Chapter 10 completes the discussion of marijuana suppliers by examining the authority different government actors wield over them. The chapter begins by discussing the constitutionality of DOJ memoranda that discourage enforcement of the congressional marijuana ban against state-licensed marijuana suppliers. The chapter then examines the limits imposed on state authority over marijuana suppliers. It looks beyond the states' power to legalize the use and supply of marijuana (covered in Chapter 6) and instead focuses on their power to *regulate* those same activities, i.e., to impose restrictions

and conditions (like licensing and labeling requirements) on the production and distribution of marijuana. To that end, it explores whether any of the state regulations detailed in Chapter 8 are preempted by federal law. The chapter concludes by examining the power of local governments to resist state reforms, and in particular, to ban the local production or distribution of marijuana after a state has legalized those activities.

**Part IV.** Part IV focuses on the law, policy, and authority issues surrounding third parties who commonly interact with marijuana users and suppliers, including professionals (like physicians and lawyers), businesses (like banks and employers), and state officials (like school administrators and police officers). Chapter 11 begins by surveying the regulations that potentially apply to all such third parties, including aiding and abetting, conspiracy, and money laundering offenses. Given the heterogeneity of third parties, however, the remaining chapters in Part IV each focus on one specific type of third party and the law, policy, and authority issues confronting it.

Chapter 12 covers the unique law, policy, and authority issues confronting professionals. It first examines the issues surrounding physicians. For example, it explores whether physicians may be sanctioned for recommending marijuana to their patients and how states have regulated physician recommendation practices. The chapter next examines the issues surrounding attorneys. For example, it asks what sorts of legal services attorneys may provide to clients regarding marijuana activities that are still prohibited at the federal level.

Chapter 13 then addresses the key law, policy, and authority issues confronting businesses that deal with marijuana users and suppliers. Transacting with marijuana users and suppliers raises a host of thorny questions addressed by the chapter: Will courts enforce contracts between marijuana suppliers and other businesses? If those contracts are not enforceable in court, how can businesses protect their reliance interests? Do some types of contracts expose businesses to legal sanctions? For example, could a landlord be criminally prosecuted for leasing property for a marijuana storefront? Can banks handle the proceeds of marijuana sales? May employers terminate employees for using marijuana? Who decides these questions?

Lastly, Chapter 14 covers the law, policy, and authority issues surrounding government officials. State officials have been caught in the crossfire of marijuana law and policy. While the federal government continues to criminalize the possession, manufacture, and distribution of marijuana, state lawmakers have ordered state officials to implement more permissive policies toward the same activities. Marijuana reforms thus raise challenging questions concerning the rights and duties of these state officials. Could state officials be prosecuted under the federal CSA for implementing state reforms? Could they be held civilly liable if they *refuse* to implement such reforms? May state officials prevent federal law enforcement agents from obtaining sensitive information the states gather from marijuana users and suppliers? Will state agencies lose federal funding by pursuing a softer approach toward marijuana? Chapter 14 addresses these and related questions.

The book's discussion of three basic topics surrounding each of three regulated parties results in a three by three organizational structure, depicted in **Figure 1.3** below. **Figure 1.3** highlights where some key issues are discussed regarding each topic and regulated party.

Figure 1.3. The Organization of the Book and Some Selected Topics

	<b>Users (II)</b>	<b>Suppliers (III)</b>	<b>Third Parties (IV)</b>
<b>Law</b>	Possession; necessity; physician recommendation; registration; qualifying condition; open use/use in public; DUI impaired; DUI-per se; search; probable cause; immunity; affirmative defense	Manufacture; distribution; possession with intent; sentencing; DOJ enforcement memoranda; budget restrictions; forfeiture; Section 280E; civil RICO; trademarks; personal cultivation; licensing; advertising restrictions; labeling and packaging laws; marijuana taxes	Conspiracy; aiding and abetting; money laundering; crack house statute; rules of professional conduct; DEA prescription authority; employment and housing discrimination; Section 885(d) immunity
<b>Policy</b>	CSA scheduling; medical benefits; recreational benefits; physical harms; the harm principle; law's impact on usage; fiscal costs; racial disparities	Diversion; law's impact on price; tax collections; industry concentration; racial disparities in licensing	Access to physicians, lawyers, and banking services; recommendation mills
<b>Authority</b>	Congress's enumerated powers; DEA scheduling authority; anti-commandeering rule; Due Process	Preemption; private preemption suits; Take Care Clause; the local option	Preemption; contract enforcement; First Amendment; federal grant conditions

This three-by-three organizational structure serves two main purposes. First, it helps to emphasize that the issues surrounding the three regulated parties, while often similar, are by no means identical. Nearly all jurisdictions, for example, impose far less onerous regulatory restrictions on marijuana users than they do on marijuana suppliers. In some jurisdictions, marijuana use (or possession) may be lawful or at least decriminalized, while marijuana cultivation or distribution remain subject to criminal prohibitions and correspondingly harsh sanctions. To be sure, one could cover all of the substantive law, policy, or authority issues surrounding all three parties at one time. The structure of the book even makes this possible; e.g., the instructor or reader could regroup the chapters around a particular topic rather than a particular party. But doing so could be overwhelming; consider that the book devotes nearly 300 pages just to the substantive laws governing marijuana. Interspersing discussions of law, policy, and authority adds some variety to the subject and thereby helps to keep each topic more engaging.

Second, the organization enables the book to gradually introduce more complexity into each of the topics. The book starts with marijuana users in large part because the rules, policies, and authority issues surrounding them are relatively straightforward. It then introduces the more complicated rules, policies, and authority issues that apply to

suppliers, and, finally, those that apply to third parties. There is, of course, some inescapable overlap in the topics across the three groups. However, the book is careful to discuss a common issue only once, and to refer the reader to that discussion any time it becomes relevant elsewhere in the book.

While following the suggested order of topics has advantages, the book's structure allows the instructor (or reader) to easily and seamlessly customize the ordering of topics or to focus on a specific topic or regulated party of interest. For example, the instructor who is particularly interested in the health law issues surrounding marijuana might focus on the laws defining who may use marijuana for medical use (Chapter 4), the debates over marijuana's health harms and benefits (Chapter 5), the DEA's authority to reschedule marijuana (Chapter 6), and the laws governing physicians who recommend the drug to their patients (Chapter 12). Likewise, the instructor who is particularly interested in the business law issues surrounding marijuana might focus on the unique federal tax, trademark, contracting, and banking risks faced by such businesses (Chapters 7 and 13), the sundry regulations legalization states have imposed on them (Chapter 8), and the preemption challenges directed at those (and local) regulations (Chapter 10). Along these lines, the Teacher's Manual provides suggestions for customizing a syllabus to meet the needs of a particular course of study.

### 3. The Features of the Book

The book includes several distinctive features that are designed to explain, to provoke critical thinking about, and to facilitate discussions of each of the topics outlined above. This section briefly describes those features.

**Text.** The book includes a substantial amount of original text. The text clearly introduces each of the issues covered, providing the background needed for the reader to understand and evaluate the materials—a critical feature for a relatively new subject, especially one implicating a diverse array of legal doctrines and topics. The text also provides summaries of the laws and it highlights key discrepancies in the regulations adopted by different jurisdictions. The text and structure of the book also help to explain the relationships among topics—i.e., how all of the pieces of this complex puzzle fit together.

**Excerpts from Primary Sources.** The book also includes excerpts from a variety of primary materials, including cases, statutes, regulations, government reports, memoranda, lawsuits, and secondary scholarship. There is no shortage of potential materials in this field; the difficult part is figuring out the ones on which the time-strapped instructor or reader should focus. To that end, I reviewed *several thousand* sources as I was writing this book. Each source that is included was chosen because it provides an illuminating discussion or treatment of a particular topic—whether or not I agree with it. (Note, however, that the omission of a source is not meant to suggest that it is unimportant or unhelpful—there is simply far too little space to fit everything I would have wanted to include in the book.) I trimmed each excerpt down to a manageable size to focus on key points of interest and to save the reader time, but the companion website (described below) contains links to full versions of many of them.

**Notes and Questions.** Following most excerpts and many sections of text, you will find a Notes and Questions section. The Notes and Questions sections include questions

about the excerpt or text, further details on the topic at hand and related subjects, and Problems (discussed below). These materials are important but generally less essential than the main excerpt or text they follow. Putting these materials into a separate section enables instructors and readers to probe certain issues more fully as they choose, without having to spend time on issues that may be of less import or relevance to them.

**Website.** The law governing marijuana is constantly evolving and research in the field is growing at a fast clip. Nonetheless, the materials excerpted in the book were chosen to stand the test of time; i.e., their discussions of particular issues should remain enlightening and relevant, notwithstanding changes to the law. However, the book also has a companion website to help keep the reader abreast of important developments in the field. The website also provides supplemental materials, such as links to sources excerpted in the book and additional cases and statutes from different jurisdictions that can be used to focus on the laws of a particular state, if so desired.

**Problems.** Another valuable feature of the book are the more than 100 Problems interspersed throughout every chapter. Each Problem is carefully and clearly constructed to facilitate critical thinking about and provoke thoughtful discussion of the issues raised in the text and excerpts. Some Problems are based on real-life cases and events; those Problems typically include citations to and even quotes from the inspirational materials. Here are some examples of Problems, taken from different chapters in the book:



**Problem 4.15:** While driving her car, Camilla is stopped for speeding. In the course of inspecting Camilla’s license and car registration, the officer detects the faint smell of unburnt marijuana emanating from Camilla’s car. Does the smell of the marijuana alone give the officer probable cause to search the car? How, if at all, does your answer change if the state has: prohibited possession outright, decriminalized possession, legalized possession for certain medical uses, or legalized possession by adults of up to one ounce irrespective of the purposes for which it will be used?



**Problem 5.1:** Suppose you meet a genie with magical powers. The genie makes you the following offer: at your command, she will make all of the marijuana (plants included) in the world instantly disappear forever. There is no catch, and you believe she could do it. Would you give the command? Why, why not?



**Problem 8.16:** Delilah is the owner of a licensed Retail Marijuana Store in Small Town, Colorado. Seventy-five percent of the population of Small Town is 21 years old or older. In early December, Delilah runs a small advertisement for her store in the local paper. The ad has a picture of Santa Claus stuffing marijuana into a stocking with the name “Mrs. Claus” on it. Does the ad violate the Colorado Retail Marijuana Code advertising restrictions? *Cf.* Beer Institute, Advertising and Marketing Code § 3(b) (June 2015).

**Problem 10.6:** In 2016, the City of Oakland, California, adopted the Dispensary Equity Permit Program, under which the City will award at least 50 percent of its marijuana business licenses to applicants who meet the following criteria:



A. Criteria. Applicant must have at least one member who meets all of the following criteria:

1. Be an Oakland resident who:

a. Resides for at least two (2) years prior to the date of application in Oakland Police Department Beats 26Y, 30X, 30Y, 31Z, 32Y, and 34X; or those individuals who, within the last ten (10) years, have been previously incarcerated for a marijuana-related offense as a result of a conviction arising out of Oakland, California;

b. Maintains not less than a fifty percent (50%) ownership in the Dispensary applicant entity, partnership, limited liability corporation, collective, corporation, worker cooperative or other recognized ownership entity; and

2. Prior marijuana or cannabis conviction shall not be a bar to equity ownership.

Oakland Mun. Code 5.80.045 (2016). Is the Dispensary Equity Permit Program constitutional? See generally Brian T. Fitzpatrick, *Can Michigan Universities Use Proxies for Race After the Ban on Racial Preferences?*, 133 Mich. J. Race & L. 277 (2007).

**Problem 12.11:** Andy is an attorney who is licensed to practice in a recreational marijuana state. Camila tells Andy that she wants to launch a retail marijuana store. Under the state's marijuana law, Camila must first apply for a retail marijuana license from the state. Camila has no legal training. She asks Andy for help in completing the license application, which is 13 pages long and includes many questions for which a legal background would be helpful. If Andy completes the application on behalf of Camila, would he be in violation of Rule 1.2(d) of the Model Rules of Professional Conduct? Suppose Camila completes the application herself, but she asks Andy for help in deciphering the meaning of certain questions on the application (e.g., "Has any interest or share in the profits of the sale of Marijuana been pledged or hypothecated as security for a debt or deposited as a security for the performance of an act or to secure the performance of a contract?"). Can Andy answer Camila's questions under Rule 1.2(d)?



**Problem 13.1:** Ivan is an investor who loaned \$500,000 to Oma. Oma is the owner of The Dude Ranch, a state-licensed medical marijuana dispensary. Pursuant to the terms of the loan agreement, Oma was supposed to use the funds "to grow and sell marijuana through The Dude Ranch, to the extent permitted by state law." In return, Oma would pay Ivan 12 percent interest annually over 30 years, with the principal due at the end of the loan term. However, Oma instead used the \$500,000 to buy a house for herself. She has



refused to pay Ivan any of the interest due on the loan, and she has refused to refund any of the loan principal. Ivan has sued Oma in state court for breach of contract. Will the court enforce the contract? If so, what remedy will it award?

**Teacher's Manual.** The Teacher's Manual helps instructors to design and prepare to teach their own courses on this subject. Among other things, the Manual offers explanatory notes about topics and materials (e.g., why a particular case was included in the book, etc.), suggestions for additional classroom exercises, and thoughts about questions posed in the text and Problems. The Manual also provides sample syllabi to help instructors design their course around different credit requirements, themes, and so on.

\* \* \*

I hope this brief Introduction inspires you to read on. And as you read on, I hope the book enlightens your views on this important subject—whatever they might be—just as writing the book challenged, informed, and refined my own views.

So, without further ado, let's get going!





## **B. LANDLORDS**

Certain types of contracts with marijuana users and suppliers are subject to additional regulations. Leases are one of them. Indeed, in some states, leases with marijuana users and suppliers are subject to two seemingly contradictory rules: a provision of the federal CSA that bars landlords from allowing tenants to use rental property for purposes of consuming, manufacturing, or distributing marijuana, and state laws that—to varying degrees—appear to bar landlords from discriminating against some such tenants. The following sections discuss both regulations and the tension between them.

### **1. May Landlords Rent Property to Tenants Who Use or Supply Marijuana on It?**

In 1986, Congress added a new provision to the CSA which bars individuals from using—or allowing others to use—property for purposes of consuming, manufacturing, or distributing illicit drugs. In relevant part, section 856 of the CSA, commonly known as the “crack house statute,” declares:

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful to—

(1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;

(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

(b) Criminal penalties

Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than \$500,000, or both, or a fine of \$2,000,000 for a person other than an individual.

...

(d) Civil penalties

(1) Any person who violates subsection (a) of this section shall be subject to a civil penalty of not more than the greater of

(A) \$250,000; or

(B) 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person.

...

(e) Declaratory and injunctive remedies

Any person who violates subsection (a) of this section shall be subject to declaratory and injunctive remedies as set forth in section 843(f) of this title.

21 U.S.C. § 856.

Section 856 creates two distinct offenses, but we will focus on the one aimed at landlords who do not themselves use or supply marijuana—section 856(a)(2). In a criminal prosecution under section 856(a)(2), the government must establish beyond a reasonable doubt that the defendant:

- (1) managed or controlled a place that she
- (2) rented or otherwise made available to another person who
- (3) she knew would use it for purposes of consuming, manufacturing, or distributing marijuana (or other drugs)

The first two elements are straightforward and describe something akin to a landlord-tenant relationship (although the statute is not confined to such). For ease of exposition I will refer to the defendant as the landlord. The third element is somewhat trickier. Under section 856(a)(2) the government need not demonstrate that the landlord herself intended that the property be used to consume, manufacture, or distribute drugs; rather, “the purpose in issue is that of the person renting or otherwise using the place”—i.e., the tenant’s. *United States v. Chen*, 913 F.2d 183, 191 (5th Cir. 1990). The landlord need only be aware of the tenant’s purpose or willfully blind to it. *Id.* The third element is thus similar to the mens rea requirement for federal money laundering offenses, discussed in Chapter 11 Section C.1.d.

## Notes and Questions

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1. What does it mean to use a place “for the purpose of” consuming, manufacturing, or distributing marijuana? The following Problems test the outer limits of the statute:

**Problem 13.5:** Terrence is interested in renting a house from Lana. When they meet to discuss the terms of the lease, Terrence asks Lana about her



smoking policy: “Do you allow your tenants to smoke? I’ll be up front with you. Every once in a while, I like to smoke a joint just to relax. There’s nowhere else I can do it. Are you okay with that?” Lana replied: “Tenants and their guests may smoke in the house, but if they do, they have to pay a special cleaning fee of \$250.” At the end of their meeting, Terrence and Lana sign a one-year lease agreement. Terrence moves into the house and, on occasion, smokes a marijuana joint inside. Is Lana guilty of a violation of section 856(a)(2)? *United States v. Gilbert*, 496 F. Supp. 2d 1001, 1011 (N.D. Iowa 2007).

**Problem 13.6:** Lana rents prime retail space in a strip mall to The Dude Ranch, a state-licensed medical marijuana dispensary and alternative care center. The Dude Ranch uses roughly half of the property as a medical marijuana storefront; the other half it uses to provide a variety of alternative medicine practices—acupuncture, meditation, etc.—to consumers. Is Lana guilty of a violation of section 856(a)(2)? Compare *United States v. Tamez*, 941 F.2d 770, 774 (9th Cir. 1991), with *Gilbert*, *supra*, 496 F. Supp. 2d at 1011.



2. How does the offense created by section 856(a)(2) differ (if at all) from the aiding and abetting offense discussed in Chapter 11? For example, is Lana in **Problem 13.6** guilty of aiding and abetting The Dude Ranch’s sale of marijuana?

3. In the first 15 years following California’s passage of Proposition 215, section 856(a)(2) was a key tool used by the Department of Justice (DOJ) to combat the medical marijuana industry. In several states, federal agents sent letters to landlords who were renting property to medical marijuana dispensaries (often in school zones), warning the landlords to terminate their tenants’ illegal activities or else risk forfeiting the rental property (among other sanctions). *E.g.*, Drug Enforcement Admin., Enforcement Notices Sent to Marijuana Storefronts in Western Washington Operating Within School Zones, Aug. 23, 2012, <https://perma.cc/UQ55-SVQU>; Brett Wolf, *U.S. Targets Landlords in Fight Against Medical Pot*, Reuters.com, June 14, 2012, <https://perma.cc/E8CS-6GDH>. The following letter is representative:

To Whom It May Concern:

The Drug Enforcement Administration has determined that there may be a marijuana enterprise operating under the name [REDACTED] at the real property located at [REDACTED]. In addition, it appears that [REDACTED] is within 1,000 feet of an educational facility or other prohibited area. It is our understanding that you may own or have the property of the marijuana enterprise under your management or control, or that you own and/or operate the marijuana enterprise itself.

Please be advised that distributing, possessing with intent to distribute, or manufacturing controlled substances, or aiding and abetting such an offense violates federal law. Doing any of these activities in close proximity to an educational facility or playground, subjects the persons involved to enhanced penalties pursuant to Title 21, United States Code, Section 860.

This letter serves as notice to you that, under United States law, the sale and distribution of marijuana is illegal and subject to criminal prosecution and civil enforcement actions. Property involved in such operations, including real property, is subject to seizure by, and forfeiture to the United States. Specifically, Title 21, United States Code, Section 856(a) provides in relevant part:

[I]t shall be unlawful to . . . knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing or using a controlled substance.

Section 881(a) of Title 21 provides in relevant part:

The following shall be subject to forfeiture to the United States and no property right shall exist in them: . . . [a]ll real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this sub-chapter . . .

United States law takes precedence over state law and applies regardless of the particular uses for which an enterprise is distributing marijuana. Accordingly, it is not a criminal defense or a defense to the forfeiture of property that an enterprise is providing “medical” marijuana. Even under these circumstances, an owner of real property with knowledge or reason to know of illegal marijuana distribution occurring on real property that he/she owns or controls may have the interest in that property forfeited to the government without compensation.

Your prompt attention to this matter is strongly advised. Please take the necessary steps to discontinue the sale and/or distribution of marijuana at the above-referenced location within 30 days of this letter. If you have questions, you may wish to obtain legal counsel. If your counsel has questions, he/she may contact the U.S. Attorney’s Office for The Western District of Washington.

Sincerely,  
Matthew G. Barnes  
Special Agent in Charge  
Seattle Field Division

Matthew G. Barnes, Drug Enforcement Administration, Illegal Marijuana Enterprise at [REDACTED] within School Zone or Other Prohibited Area, Apr. 29, 2013, <https://perma.cc/W87V-9BG6>.

Even though the DOJ is no longer threatening to use section 856 against landlords, a private creditor has recently used the provision to block a landlord/debtor from obtaining the protections of federal bankruptcy law. *See In re Rent-Rite Super Kegs W. Ltd.*, 484 B.R. 799, 807 (Bankr. D. Colo. 2012). In the case, the landlord/debtor had borrowed \$1.8 million from the creditor, using the debtor’s Denver warehouse as collateral. The landlord/debtor subsequently rented the warehouse to a state-licensed marijuana producer, in violation of section 856. When the landlord/debtor later filed for Chapter 11 bankruptcy, the creditor objected, claiming that the landlord/debtor’s misconduct foreclosed the relief it sought, such as an automatic stay of credit payments. The bankruptcy court agreed, holding that:

[E]ven if the Debtor is never charged or prosecuted under the CSA, it is conducting operations in the normal course of its business that violate federal criminal law. . . . Unless

and until Congress changes that law, the Debtor's operations constitute a continuing criminal violation of the CSA and a federal court cannot be asked to enforce the protections of the Bankruptcy Code in aid of a Debtor whose activities constitute a continuing federal crime.

*Id.* at 805 (dismissing landlord/debtor's Chapter 11 petition).

4. Many states have adopted provisions similar to section 856. See *Validity and Construction of State Statutes Criminalizing the Act of Permitting Real Property to be Used in Connection with Illegal Drug Activities*, 24 A.L.R.5th 428 (1994). Following the adoption of marijuana reforms, some states have expressly shielded landlords from state criminal liability for renting property to tenants who use or supply marijuana in compliance with state law. *E.g.*, Colo. Const. art. XVIII, § 16(4) ("Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Colorado law or be a basis for seizure or forfeiture of assets under Colorado law for persons twenty-one years of age or older: . . . (f) Leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with [Colorado law]."). Is it necessary for states to do so? In other words, would landlords still be liable under state law for renting property to marijuana users or suppliers without such shields?

## 2. Can Landlords Ever Be Sanctioned for *Refusing* to Rent to Marijuana Users?

Under federal law, in circumstances just discussed, a landlord may be sanctioned for renting property to someone she knows will use it for consuming marijuana. But could a landlord ever be sanctioned for *refusing* to rent to a marijuana user? In other words, do reform states shield marijuana users from housing discrimination?<sup>2</sup>

Most reform states appear to bar landlords from discriminating against lawful marijuana users based solely on their *status as users*. Put differently, landlords may not refuse to rent to or evict someone just because she uses marijuana *somewhere*. For example, Arizona's medical marijuana law provides that:

No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person *solely for his status as a [registered medical marijuana] cardholder*, unless failing to do so would cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

Ariz. Rev. Stat. Ann. § 36-2813(A) (West 2016) (emphasis added). See also Conn. Gen. Stat. Ann. § 21a-408p(2) (West 2016) (similar); Del. Code Ann. tit. 16, § 4905A(a)(1) (West 2016) (similar).

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2. Federal anti-discrimination laws are addressed in notes 3-4, *infra*, and in Chapter 14 (discussing bans on discrimination in public housing). Suffice to say that federal law generally does not shield marijuana users from discrimination based on their status as such.

At the same time, a few of these states expressly permit landlords to bar tenants from using marijuana on the rental property. Montana’s medical marijuana law, for example, makes clear that it does not require “a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana” on the rental premises. Mont. Code Ann. § 50-46-320(4) (West 2016). See also, e.g., Colo. Const. art. XVIII, § 16(d) (2016) (“Nothing in this section shall prohibit a person, employer, school, hospital, detention facility, corporation or any other entity who occupies, owns or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.”).

In contrast, a handful of states arguably require landlords to accommodate at least some marijuana use on rental property. Maryland’s medical marijuana law is illustrative. While it does not require landlords to accommodate marijuana smoking on rental property, the Maryland statute does require them to accommodate marijuana vaporizing:

(a) This subtitle may not be construed to authorize any individual to engage in . . . the following:

. . .

(5) Except as provided in subsection (b) of this section, smoking marijuana or cannabis on a private property that:

(i)

1. Is rented from a landlord; and

2. Is subject to a policy that prohibits the smoking of marijuana or cannabis on the property; or

(ii) Is subject to a policy that prohibits the smoking of marijuana or cannabis on the property of an attached dwelling adopted by one of the following entities:

1. The board of directors of the council of unit owners of a condominium regime; or

2. The governing body of a homeowners association.

(b) The provisions of subsection (a)(5) of this section do not apply to vaporizing cannabis.

Md. Code Ann., Health-Gen. § 13-3314 (West 2016). Other states make a similar distinction between smoking marijuana and consuming it in other forms. E.g., Me. Rev. Stat. tit. 22, § 2423-E (West 2016) (“This subsection does not prohibit a restriction on the administration or cultivation of marijuana on premises when that administration or cultivation would be inconsistent with the general use of the premises. A landlord or business owner may prohibit the smoking of marijuana for medical purposes on the premises of the landlord or business if the landlord or business owner prohibits all smoking on the premises and posts notice to that effect on the premises.”) (emphases added); Haw. Rev. Stat. § 521-39 (West 2016) (similar); 410 Ill. Comp. Stat. Ann. 130/40(a)(1) (West 2016); N.H. Rev. Stat. Ann. § 126-X:3(I) (West 2016) (similar).

## Notes and Questions

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1. Do laws that prohibit discrimination against medical marijuana users suggest that landlords must accommodate a tenant’s use of marijuana on the rental property? After

all, what purpose would be served by a law that requires landlords to rent to medical marijuana users but not to accommodate their use on rental property?

2. In a similar vein, does a state law that expressly authorizes a landlord to ban smoking of marijuana—but does not mention other modes of consumption—implicitly forbid the landlord from banning other modes of consumption? If the statutes above seem unclear, how would you redraft them to more clearly delineate the rights and obligations of landlords?

3. Even if state law does not require a landlord to accommodate a tenant’s use of marijuana, may a landlord necessarily evict a tenant for using marijuana on rental property? See, e.g., Tschetter, Hamrick, Sulzer, *Marijuana—You’ve Got Questions, We’ve Got Answers*, 15 *Landlord News* (Feb. 2014), <https://perma.cc/7DG4-UPFP> (discussing landlord rights under Colorado law and advising landlords to clearly address marijuana use and cultivation in lease documents).

4. Is it possible to reconcile the state laws discussed above with 21 U.S.C. section 856(a)(2)? In other words, are state laws preempted by federal law? The following Problems raise the issue:

**Problem 13.7:** Lana discovers that a prospective tenant, Terrence, is a registered medical marijuana patient. Lana is a staunch opponent of the state’s medical marijuana program and for that reason does not want to rent to Terrence. However, state law bars landlords from refusing to lease property to a person solely because he/she is a registered medical marijuana patient. If Lana refuses to rent to Terrence and he sues her for violating the state non-discrimination law, may Lana raise a preemption defense? See Robert A. Mikos, *Preemption Under the Controlled Substances Act*, 16 *J. Health Care L. & Pol’y* 5, 32-33 (2013).



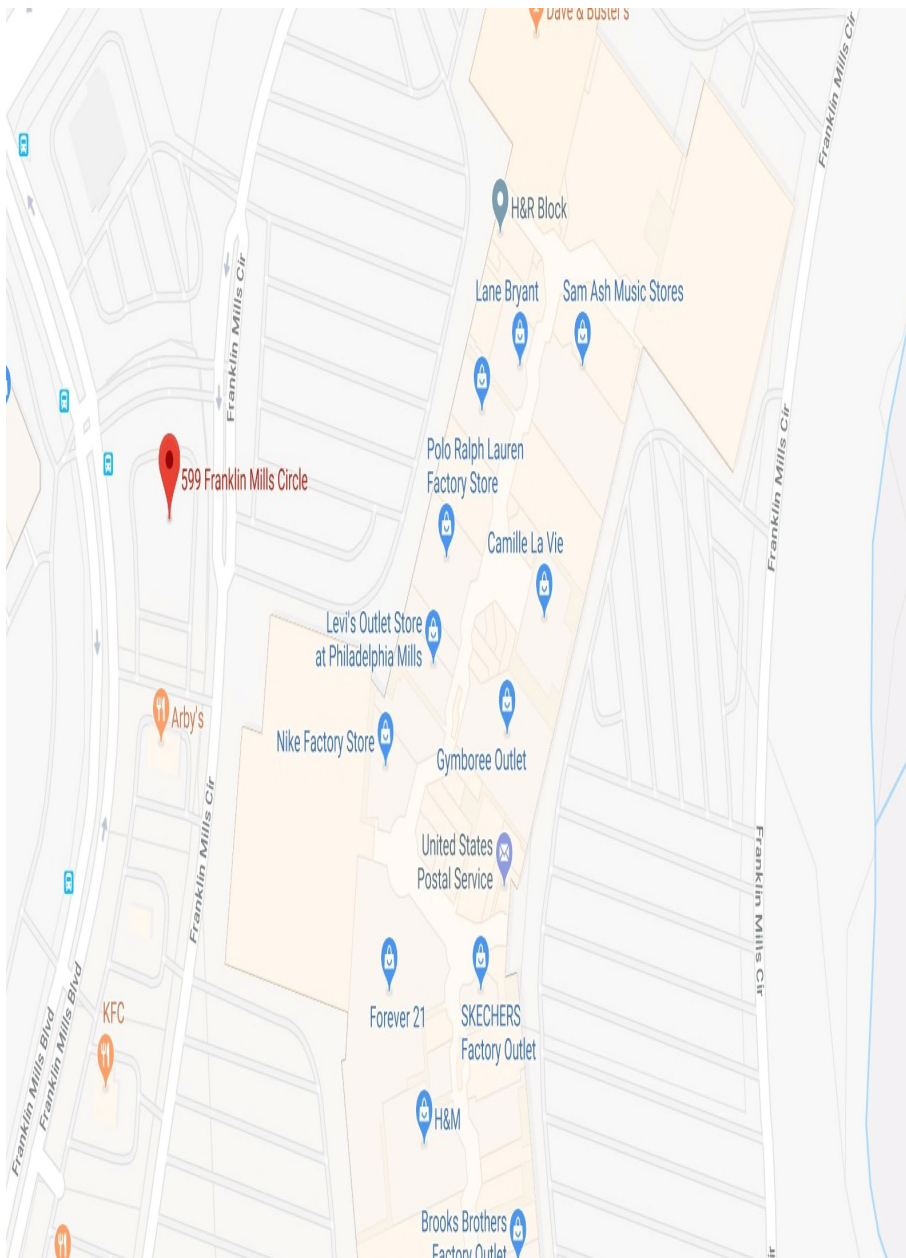
**Problem 13.8:** Lana has rented a small house to Terrence. A few months into the lease, Lana discovers that Terrence has been growing 75 marijuana plants throughout the house. Lana seeks to evict Terrence, citing the lease agreement’s “Crime Free Addendum,” which stipulates that a tenant “shall not engage in any criminal activity” on the rental property. In response to the notice of eviction, Terrence invokes a provision of the state’s medical marijuana law that provides that “a landlord may not sanction a tenant solely for engaging in conduct permitted by the state medical marijuana law.” Lana acknowledges that Terrence’s marijuana cultivation comports with state law. Could Lana nonetheless challenge the state non-discrimination law as preempted? See *Forest City Residential Management, Inc. ex rel. Plymouth Square Ltd. Dividend Housing Ass’n v. Beasley*, 71 F. Supp. 3d 715 (E.D. Mich. 2014); Mikos, *Preemption, supra*, at 32-33



5. Should landlords be required to lease property to marijuana users? Only medical users or all users? Should landlords also be required to accommodate marijuana use on

rental property? What about the cultivation or distribution of marijuana? Should landlords ever be required to accommodate those activities?





- December 2017
- November 2017
- October 2017
- September 2017
- August 2017
- July 2017

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- Updates

### Meta

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- Log in
- Entries RSS
- Comments RSS
- WordPress.org

The covenants Simon et al. tied to the property (pictured above on the map, at 599 Franklin Mills Circle) bar 28 different uses of the property, including use as a “trailer court”, “mortuary”, “flea market”, “Supermarket”, “toy store which contains more than Eight Thousand Six Hundred” square feet, “Bowling alley”, “Nursery”, and any use “which emits or results in an obnoxious odor.” The full list of conditions can be found on pages 21-23 in [PharmaCann Penn v. BV Development case docs](#) .

The two limitations that are of particular relevance to PharmaCann bar:

“11. Any activity or use which is unlawful or conflicts with or violates the Development Agreement;”

...

17. Drug store (i.e., a store used for the sale and display of drugs, pharmaceutical, health and beauty aids, ad/or other such similar items);”

After Simon et al. objected to the sale, PharmaCann filed suit in *state* court seeking a declaratory judgment that its proposed use of the property did not violate these restrictive covenants. Simon et al. then sought to remove the suit to federal court, on grounds of diversity jurisdiction. In March 2018, the Eastern District of Pennsylvania upheld its jurisdiction over the dispute. See [PharmaCann Penn Order](#) . It has not yet made any ruling on the merits.

The case raises several interesting legal questions. Let me highlight a few here:

**1. First, will a court interpret the two covenants quoted above to bar PharmaCann from opening a marijuana dispensary on the property?**

PharmaCann could contest the restrictions as applied to its proposed use. In particular, PharmaCann could attempt to convince a court that the terms of the covenant are *ambiguous*. In cases of ambiguity, courts generally interpret covenants narrowly to allow freer use of the property.

It's a tough sell, but here's the argument PharmaCann could make. With respect to the first covenant ("unlawful"), it's clear that selling marijuana violates federal law. Nevertheless, PharmaCann could argue that the covenant doesn't clearly specify that it covers acts that are unlawful under federal law. In other words, it's possible that the covenant bars only acts that are "unlawful" under state law. The same issue has arisen under state laws that bar employers from discriminating against employees who engage in "lawful activities" and state laws that bar probationers from engaging in "unlawful" conduct, and at least some of these courts have found the term "unlawful" (or lawful) to refer exclusively to *state* law (see book pages 120-123 and 665-672). Hence, it's not unreasonable to suppose that a court might do the same when interpreting the same term in a restrictive covenant.

Although I think this is a somewhat strained reading of the term "unlawful", it accords with another limitation courts impose on restrictive covenants: those covenants cannot go against public policy. PharmaCann could argue that the state of Pennsylvania clearly approves of its proposed use, and that enforcing the restrictive covenant against it would undermine the state's policy of authorizing the distribution of marijuana for medical purposes.

A court might find the second covenant ("Drug store") ambiguous as well. Although a medical marijuana dispensary sells a drug, it's probably not the type of business Simon et al. had in mind back in 1991 when they attached this covenant to the property. It's just speculation, but I imagine Simon et al. probably had an existing tenant like CVS or Walgreens in the Philadelphia Mills (then Franklin Mills) mall, and they simply wanted to protect that tenant's business (and thus their own) by preventing a direct competitor from opening a store near the mall. If that's the case, a court might find that PharmaCann's proposed medical marijuana dispensary doesn't undermine the original purpose of the covenant. After all, a medical marijuana dispensary doesn't directly compete with CVS or Walgreens. Those chains don't sell marijuana products, and medical marijuana dispensaries don't sell pharmaceuticals or over the counter medications or any of the other sundry products (beauty aids, etc.) that CVS and Walgreens hawk. Thus, a court might interpret "Drug store" narrowly to allow PharmaCann to open a medical marijuana dispensary on the property.

**2. Second, where should this dispute be heard?**

As noted above, PharmaCann originally filed this lawsuit in state court. Simon et al. then sought to remove it to federal court, citing the court's diversity jurisdiction as the sole

grounds for such removal (the Notice of Removal is included in the packet of case docs file above). PharmaCann resisted removal, but the federal court issued an order in March 2018 (see above) upholding its jurisdiction over the case.

Oddly, however, the federal court rested its decision entirely on *federal question jurisdiction*. Even though the cause of action here (based on the covenant) is created by state law, the court reasoned that “federal jurisdiction over a state claim will lie if a federal issue is: (1) necessarily raised, (2) actually disputed, (3) substantial, and (4) capable of resolution in federal court without disrupting the federal-state balance approved by Congress.” See Order page 4 (quoting *Gunn v. Minton*, 568 U.S. 251, 258 (2013)). As to the first prong of the *Gunn* test, the court found that the “federal question of the dispensary’s lawfulness is necessarily raised because a court must consider and ultimately apply federal law in order for PharmaCann to get the relief it seeks.” Order page 4. In particular, it held that “the resolution of the federal question—namely, whether a medical marijuana dispensary is ‘unlawful’ under the Controlled Substances Act—is necessary to decide whether the dispensary is an ‘unlawful’ use under the deed. Indeed, PharmaCann seeks a court’s determination that its marijuana dispensary is lawful, which requires a court to apply federal law to PharmaCann’s chosen use.” Order page 4.

I think the court may have misunderstood a key issue in the case. It’s possible PharmaCann is claiming that its medical marijuana dispensary is really legal under federal law. Indeed, on page 5, the court suggests PharmaCann’s attorney may have made this claim at oral argument. But that’s hard to believe. Federal law clearly prohibits PharmaCann’s activities; that the federal DOJ isn’t currently enforcing the ban against PharmaCann doesn’t make the company’s activities lawful.

As noted above, the real issue in the case—the one PharmaCann might actually be raising—is whether the term “unlawful” in the deed refers to both state and federal law. The interpretation of the terms of a covenant—i.e., whether it bars a use of property that is unlawful as a matter of state, federal, local, international, or Bolivian law, is a *state law* issue. It doesn’t become a federal question just because the covenant refers to federal law. Otherwise, a simple contract, say, to “paint a picture of the President of the United States” or “tour the capital of the United States” would necessarily become a federal question.

Importantly, restrictive covenants do not pose the same preemption issue posed by Section 856 (discussed above)—preemption undoubtedly does pose a federal question. Unlike enforcement of an agreement to lease property to a marijuana dispensary, the refusal to enforce a restrictive covenant on that property is not preempted by federal law. That’s because refusing to enforce the limitation doesn’t force anyone to violate federal law. It would simply let PharmaCann go about its business without any interference from the state. And under the anti-commandeering rule, a state has no affirmative obligation to stop private citizens from flouting federal law, say, by barring them from using property to distribute marijuana.

Ultimately, this point may not matter much in the dispute. As noted above, Simon et al. sought removal based on *diversity* jurisdiction, and at least on the face of their request for removal, the requirements of diversity jurisdiction would appear to be satisfied here. In any event, it’s not clear that PharmaCann will fare any worse in federal as opposed to state court. Surprisingly, on some issues (like employment protections for marijuana users), federal courts appear have been far more protective of state law prerogatives than their state court counterparts.

### 3. Third, how much of an impact will the case (or restrictive covenants) have on marijuana suppliers?

If a court untimely finds PharmaCann’s medical marijuana dispensary violates the terms of a restrictive covenant, it would add another obstacle to those already hindering these state-licensed marijuana suppliers. However, this particular barrier could turn out to be a limited one.

For one thing, it’s not clear whether the restrictive covenants in this case—i.e., ones prohibiting “unlawful” uses or “Drug stores”—are commonplace. If they are not, marijuana suppliers could easily find properties that do not include them. (Restrictive covenants are published alongside property deeds, so they can be searched ex ante by buyers to avoid surprises). And even if a marijuana supplier strongly prefers a property with a restrictive covenant, it can potentially negotiate with the original grantor (or whoever else has the power to enforce the covenant) to have covenant removed or to leave it unenforced. For example, PharmaCann could offer Simon et al. a settlement if they agree to lift the covenant. It appears Simon et al. are the only parties with the power to enforce the covenant, which would simplify any settlement.

Again, an interesting case. I’ll try to post on significant developments in the case. For the time being, the Philadelphia Inquirer has more coverage of the case at [How a federal judge in Philly could blow up the marijuana business.](#)

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