

# STATE OF NEW YORK

854--A

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KRUEGER, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BRISPORT, BROUK, COMRIE, COONEY, GIANARIS, HINCHEY, HOYLMAN, JACKSON, KENNEDY, LIU, MAY, 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

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 labor law, the family court act, 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 amend chapter 174 of the laws of 1968 constituting the urban development corporation act, in relation to loans to social and economic equity applicants, providing increased drug recognition awareness and

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

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Advanced Roadside Impaired Driver Enforcement training, directing a study designed to evaluate methodologies and technologies for the detection of cannabis-impaired driving, providing for the transfer of employees and functions from the department of health to the office of cannabis management; 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; and to repeal certain provisions of the penal law relating to making conforming changes

**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 including mass incarceration and other complex generational  
20 trauma, that inhibit an otherwise law-abiding citizen's ability to  
21 access housing, employment opportunities, and other vital services.  
22 Existing laws have also created an illicit market which represents a  
23 threat to public health and reduces the ability of the legislature to  
24 deter the accessing of marihuana by minors. Existing marihuana laws have  
25 disproportionately impacted African-American and Latinx communities.

26 The intent of this act is to regulate, control, and tax marihuana,  
27 heretofore known as cannabis, generate significant new revenue, make  
28 substantial investments in communities and people most impacted by  
29 cannabis criminalization to address the collateral consequences of such  
30 criminalization, prevent access to cannabis by those under the age of  
31 twenty-one years, reduce the illegal drug market and reduce violent  
32 crime, reduce participation of otherwise law-abiding citizens in the  
33 illicit market, end the racially disparate impact of existing cannabis  
34 laws, create new industries, protect the environment, improve the  
35 state's resiliency to climate change, protect the public health, safety  
36 and welfare of the people of the state, increase employment and  
37 strengthen New York's agriculture sector.

1 Nothing in this act is intended to limit the authority of any  
2 district, government agency or office or employers to enact and enforce  
3 policies pertaining to cannabis in the workplace; to allow driving under  
4 the influence of cannabis; to allow individuals to engage in conduct  
5 that endangers others; to allow smoking cannabis in any location where  
6 smoking tobacco is prohibited; or to require any individual to engage in  
7 any conduct that violates federal law or to exempt anyone from any  
8 requirement of federal law or pose any obstacle to the federal enforce-  
9 ment of federal law.

10 The legislature further finds and declares that it is in the best  
11 interest of the state to regulate medical cannabis, adult-use cannabis,  
12 cannabinoid hemp and hemp extracts under independent entities, known as  
13 the cannabis control board and the office of cannabis management.

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

18 1. "Applicant" unless otherwise specified in this chapter, shall mean  
19 a person applying for any cannabis, medical cannabis or cannabinoid hemp  
20 license or permit issued by the New York state cannabis control board  
21 pursuant to this chapter that: has a significant presence in New York  
22 state, either individually or by having a principal corporate location  
23 in the state; is incorporated or otherwise organized under the laws of  
24 this state; or a majority of the ownership are residents of this state.  
25 For the purposes of this subdivision, "person" means an individual,  
26 institution, corporation, government or governmental subdivision or  
27 agency, business trust, estate, trust, partnership or association, or  
28 any other legal entity.

29 2. "Cannabinoid" means the phytocannabinoids found in hemp and does  
30 not include synthetic cannabinoids as that term is defined in subdivi-  
31 sion (g) of schedule I of section thirty-three hundred six of the public  
32 health law.

33 3. "Cannabinoid hemp" means any hemp and any product processed or  
34 derived from hemp, that is used for human consumption provided that when  
35 such product is packaged or offered for retail sale to a consumer, it  
36 shall not have a concentration of more than three tenths of a percent  
37 delta-9 tetrahydrocannabinol.

38 4. "Cannabinoid hemp processor license" means a license granted by the  
39 office to process, extract, pack or manufacture cannabinoid hemp or hemp  
40 extract into products, whether in intermediate or final form, used for  
41 human consumption.

42 5. "Cannabis" means all parts of the plant of the genus Cannabis,  
43 whether growing or not; the seeds thereof; the resin extracted from any  
44 part of the plant; and every compound, manufacture, salt, derivative,  
45 mixture, or preparation of the plant, its seeds or resin. It does not  
46 include the mature stalks of the plant, fiber produced from the stalks,  
47 oil or cake made from the seeds of the plant, any other compound, manu-  
48 facture, salt, derivative, mixture, or preparation of the mature stalks  
49 (except the resin extracted therefrom), fiber, oil, or cake, or the  
50 sterilized seed of the plant which is incapable of germination. It does  
51 not include hemp, cannabinoid hemp or hemp extract as defined by this  
52 section or any drug products approved by the federal Food and Drug  
53 Administration.

54 6. "Cannabis consumer" means a person twenty-one years of age or older  
55 acting in accordance with any provision of this chapter.

1 7. "Cannabis control board" or "board" means the New York state canna-  
2 bis control board created pursuant to article two of this chapter.

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

9 9. "Cannabis product" or "adult-use cannabis product" means cannabis,  
10 concentrated cannabis, and cannabis-infused products for use by a canna-  
11 bis consumer.

12 10. "Cannabis-infused products" means products that have been manufac-  
13 tured and contain either cannabis or concentrated cannabis and other  
14 ingredients that are intended for use or consumption.

15 11. "Cannabis trim" means all parts of the plant of the genus Cannabis  
16 other than cannabis flower that have been harvested, dried, and cured,  
17 but prior to any further processing.

18 12. "Caring for" means treating a patient, in the course of which the  
19 practitioner has completed a full assessment of the patient's medical  
20 history and current medical condition.

21 13. "Certification" means a certification made under this chapter.

22 14. "Certified medical use" includes the acquisition, cultivation,  
23 manufacture, delivery, harvest, possession, preparation, transfer,  
24 transportation, or use of medical cannabis for a certified patient, or  
25 the acquisition, administration, cultivation, manufacture, delivery,  
26 harvest, possession, preparation, transfer, or transportation of medical  
27 cannabis by a designated caregiver or designated caregiver facility, or  
28 paraphernalia relating to the administration of cannabis, including  
29 whole cannabis flower, to treat or alleviate a certified patient's  
30 medical condition or symptoms associated with the patient's medical  
31 condition.

32 15. "Certified patient" means a patient who is a resident of New York  
33 state or receiving care and treatment in New York state as determined by  
34 the board in regulation, and is certified under this chapter.

35 16. "Chief equity officer" means the chief equity officer of the  
36 office of cannabis management.

37 17. "Concentrated cannabis" means: (a) the separated resin, whether  
38 crude or purified, obtained from cannabis; or (b) a material, prepara-  
39 tion, mixture, compound or other substance which contains more than  
40 three percent by weight or by volume of total THC, as defined in this  
41 section.

42 18. "Condition" means having one of the following conditions: cancer,  
43 positive status for human immunodeficiency virus or acquired immune  
44 deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease,  
45 multiple sclerosis, damage to the nervous tissue of the spinal cord with  
46 objective neurological indication of intractable spasticity, epilepsy,  
47 inflammatory bowel disease, neuropathies, Huntington's disease, post-  
48 traumatic stress disorder, pain that degrades health and functional  
49 capability where the use of medical cannabis is an alternative to opioid  
50 use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia,  
51 rheumatoid arthritis, autism or any other condition certified by the  
52 practitioner.

53 19. "Cultivation" means growing, cloning, harvesting, drying, curing,  
54 grading, and trimming of cannabis plants for sale to certain other cate-  
55 gories of cannabis license- and permit-holders.

1 20. "Delivery" means the direct delivery of cannabis products by a  
2 retail licensee, microbusiness licensee, or delivery licensee to a  
3 cannabis consumer.

4 21. "Designated caregiver facility" means a facility that registers  
5 with the office to assist one or more certified patients with the acqui-  
6 sition, possession, delivery, transportation or administration of  
7 medical cannabis and is a: general hospital or residential health care  
8 facility operating pursuant to article twenty-eight of the public health  
9 law; an adult care facility operating pursuant to title two of article  
10 seven of the social services law; a community mental health residence  
11 established pursuant to section 41.44 of the mental hygiene law; a  
12 hospital operating pursuant to section 7.17 of the mental hygiene law; a  
13 mental hygiene facility operating pursuant to article thirty-one of the  
14 mental hygiene law; an inpatient or residential treatment program certi-  
15 fied pursuant to article thirty-two of the mental hygiene law; a resi-  
16 dential facility for the care and treatment of persons with develop-  
17 mental disabilities operating pursuant to article sixteen of the mental  
18 hygiene law; a residential treatment facility for children and youth  
19 operating pursuant to article thirty-one of the mental hygiene law; a  
20 private or public school; research institution with an internal review  
21 board; or any other facility as determined by the board in regulation.

22 22. "Designated caregiver" means an individual designated by a certi-  
23 fied patient in a registry application. A certified patient may desig-  
24 nate up to five designated caregivers not counting designated caregiver  
25 facilities or designated caregiver facilities' employees.

26 23. "Designated caregiver facility employee" means an employee of a  
27 designated caregiver facility.

28 24. "Distributor" means any person who sells at wholesale any cannabis  
29 product, except medical cannabis, for the sale of which a license is  
30 required under the provisions of this chapter.

31 25. "Executive director" means the executive director of the office of  
32 cannabis management.

33 26. "Form of medical cannabis" means characteristics of the medical  
34 cannabis recommended or limited for a particular certified patient,  
35 including the method of consumption and any particular strain, variety,  
36 and quantity or percentage of cannabis or particular active ingredient,  
37 or whole cannabis flower.

38 27. "Hemp" means the plant *Cannabis sativa* L. and any part of such  
39 plant, including the seeds thereof and all derivatives, extracts, canna-  
40 binoids, isomers, acids, salts, and salts of isomers, whether growing or  
41 not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more  
42 than three-tenths of a percent on a dry weight basis. It shall not  
43 include "medical cannabis" as defined in this section.

44 28. "Hemp extract" means all derivatives, extracts, cannabinoids,  
45 isomers, acids, salts, and salts of isomers derived from hemp, used or  
46 intended for human consumption, for its cannabinoid content, with a  
47 delta-9 tetrahydrocannabinol concentration of not more than an amount  
48 determined by the office in regulation. For the purpose of this article,  
49 hemp extract excludes (a) any food, food ingredient or food additive  
50 that is generally recognized as safe pursuant to federal law; or (b) any  
51 hemp extract that is not used for human consumption. Such excluded  
52 substances shall not be regulated pursuant to the provisions of this  
53 article but are subject to other provisions of applicable state law,  
54 rules and regulations.

55 29. "Labor peace agreement" means an agreement between an entity and a  
56 labor organization that, at a minimum, protects the state's proprietary

1 interests by prohibiting labor organizations and members from engaging  
2 in picketing, work stoppages, boycotts, and any other economic interfer-  
3 ence with the entity.

4 30. "Laboratory testing facility" means any independent laboratory  
5 capable of testing cannabis and cannabis products for adult-use and  
6 medical-use; cannabinoid hemp and hemp extract; or for all categories of  
7 cannabis and cannabis products as per regulations set forth by the state  
8 cannabis control board.

9 31. "License" means a written authorization as provided under this  
10 chapter permitting persons to engage in a specified activity authorized  
11 pursuant to this chapter.

12 32. "Licensee" means an individual or an entity who has been granted a  
13 license under this chapter.

14 33. "Medical cannabis" means cannabis as defined in this section,  
15 intended for a certified medical use, as determined by the board in  
16 consultation with the commissioner of health.

17 34. "Microbusiness" means a licensee that may act as a cannabis  
18 producer for the cultivation of cannabis, a cannabis processor, a canna-  
19 bis distributor and a cannabis retailer under this article; provided  
20 such licensee complies with all requirements imposed by this article on  
21 licensed producers, processors, distributors and retailers to the extent  
22 the licensee engages in such activities.

23 35. "Nursery" means a licensee that produces only clones, immature  
24 plants, seeds, and other agricultural products used specifically for the  
25 planting, propagation, and cultivation of cannabis by licensed adult use  
26 cannabis cultivators, microbusinesses, cooperatives and registered  
27 organizations.

28 36. "Office" or "office of cannabis management" means the New York  
29 state office of cannabis management.

30 37. "On-site consumption" means the consumption of cannabis in an area  
31 licensed as provided for in this chapter.

32 38. "Package" means any container or receptacle used for holding  
33 cannabis or cannabis products.

34 39. "Permit" means a permit issued pursuant to this chapter.

35 40. "Permittee" means any person to whom a permit has been issued  
36 pursuant to this chapter.

37 41. "Practitioner" means a practitioner who is licensed, registered or  
38 certified by New York state to prescribe controlled substances within  
39 the state. Nothing in this chapter shall be interpreted so as to give  
40 any such person authority to act outside their scope of practice as  
41 defined by title eight of the education law. Additionally, nothing in  
42 this chapter shall be interpreted to allow any unlicensed, unregistered,  
43 or uncertified person to act in a manner that would require a license,  
44 registration, or certification pursuant to title eight of the education  
45 law.

46 42. "Processor" means a licensee that extracts concentrated cannabis  
47 and/or compounds, blends, extracts, infuses, or otherwise manufactures  
48 concentrated cannabis or cannabis products, but not the cultivation of  
49 the cannabis contained in the cannabis product.

50 43. "Registered organization" means an organization registered under  
51 article three of this chapter.

52 44. "Registry application" means an application properly completed and  
53 filed with the board by a certified patient under article three of this  
54 chapter.

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

4 46. "Retail sale" means to solicit or receive an order for, to keep or  
5 expose for sale, and to keep with intent to sell, made by any licensed  
6 person, whether principal, proprietor, agent, or employee, of any canna-  
7 bis, cannabis product, cannabinoid hemp or hemp extract product to a  
8 cannabis consumer for any purpose other than resale.

9 47. "Retailer" means any person who sells at retail any cannabis prod-  
10 uct, the sale of which a license is required under the provisions of  
11 this chapter.

12 48. "Small business" means small business as defined in section one  
13 hundred thirty-one of the economic development law, and shall apply for  
14 purposes of this chapter where any inconsistencies exist.

15 49. "Smoking" means the burning of a lighted cigar, cigarette, pipe or  
16 any other matter or substance which contains cannabis including the use  
17 of an electronic smoking device that creates an aerosol or vapor.

18 50. "Social and economic equity applicant" means an individual or an  
19 entity who is eligible for priority licensing pursuant to the criteria  
20 established in article four of this chapter.

21 51. "Terminally ill" means an individual has a medical prognosis that  
22 the individual's life expectancy is approximately one year or less if  
23 the illness runs its normal course.

24 52. "THC" means Delta-9-tetrahydrocannabinol; Delta-8-tetrahydrocanna-  
25 binol; Delta-10-tetrahydrocannabinol and the optical isomer of such  
26 substances.

27 53. "Total THC" means the sum of the percentage by weight or volume  
28 measurement of tetrahydrocannabinolic acid multiplied by 0.877, plus,  
29 the percentage by weight or volume measurement of THC.

30 54. "Warehouse" means and includes a place in which cannabis products  
31 are securely housed or stored.

32 55. "Wholesale" means to solicit or receive an order for, to keep or  
33 expose for sale, and to keep with intent to sell, made by any licensed  
34 person, whether principal, proprietor, agent, or employee of any adult-  
35 use, medical-use cannabis or cannabis product, or cannabinoid hemp and  
36 hemp extract product for purposes of resale.

## 37 ARTICLE 2

### 38 NEW YORK STATE CANNABIS CONTROL BOARD

39 Section 7. Establishment of the cannabis control board or "board".

40 8. Establishment of an office of cannabis management.

41 9. Executive director.

42 10. Powers and duties of the cannabis control board.

43 11. Functions, powers and duties of the executive director;  
44 office of cannabis control.

45 12. Chief equity officer.

46 13. Rulemaking authority.

47 14. State cannabis advisory board.

48 15. Disposition of moneys received for license fees.

49 16. Violations of cannabis laws or regulations; penalties and  
50 injunctions.

51 17. Formal hearings; notice and procedure.

52 18. Ethics, transparency and accountability.

53 19. Public health and education campaign.

54 20. Uniform policies and best practices.

1 § 7. Establishment of the cannabis control board or "board". 1. The  
2 cannabis control board is hereby created and shall consist of a chair-  
3 person nominated by the governor and with the advice and consent of the  
4 senate, with one vote, and four other voting board members as provided  
5 for in subdivision two of this section.

6 2. Appointments. In addition to the chairperson, the governor shall  
7 have two direct appointments to the board, and the temporary president  
8 of the senate and the speaker of the assembly shall each have one direct  
9 appointment to the board. Appointments shall be for a term of three  
10 years each and should, to the extent possible, be geographically and  
11 demographically representative of the state and communities historically  
12 affected by the war on drugs. Board members shall be citizens and perma-  
13 nent residents of this state. The chairperson and the remaining members  
14 of such board shall continue to serve as chairperson and members of the  
15 board until the expiration of the respective terms for which they were  
16 appointed. Upon the expiration of such respective terms the successors  
17 of such chairperson and members shall be appointed to serve for a term  
18 of three years each and until their successors have been appointed and  
19 qualified. The members, except for the chairperson, shall when perform-  
20 ing the work of the board, be compensated at a rate of two hundred sixty  
21 dollars per day, and together with an allowance for actual and necessary  
22 expenses incurred in the discharge of their duties. The chairperson  
23 shall receive an annual salary not to exceed an amount appropriated  
24 therefor by the legislature, and their expenses actually and necessarily  
25 incurred in the performance of their official duties, unless otherwise  
26 provided by the legislature. No member or member's spouse or minor child  
27 shall have any interest in an entity regulated by the board.

28 3. Expenses. Each member of the board shall be entitled to their  
29 expenses actually and necessarily incurred by them in the performance of  
30 their duties.

31 4. Removal. Any member of the board may be removed by the governor for  
32 good cause after notice and an opportunity to be heard. A statement of  
33 the good cause for their removal shall be filed by the governor in the  
34 office of the secretary of state.

35 5. Vacancies; quorum. (A) In the event of a vacancy caused by the  
36 death, resignation, removal or inability to perform his or her duties of  
37 any board member, the vacancy shall be filled in the manner as the  
38 original appointment for the remainder of the unexpired term.

39 (B) (i) In the event of a vacancy caused by the death, resignation,  
40 removal, or inability to act of the chair, the vacancy shall be filled  
41 in the same manner as the original appointment for the remainder of the  
42 unexpired term. Notwithstanding any other provision of law to the  
43 contrary, the governor shall designate one of the remaining board  
44 members to serve as acting chairperson for a period not to exceed six  
45 months or until a successor chairperson has been confirmed by the  
46 senate. Upon the expiration of the six month term, if the governor has  
47 nominated a successor chairperson, but the senate has not acted upon the  
48 nomination, the acting chairperson can continue to serve as acting  
49 chairperson for an additional ninety days or until the governor's  
50 successor chairperson nomination is confirmed by the senate, whichever  
51 comes first;

52 (ii) The governor shall provide immediate written notice to the tempo-  
53 rary president of the senate and the speaker of the assembly of the  
54 designation of a board member as acting chairperson;

55 (iii) If (a) the governor has not nominated a successor chairperson  
56 upon the expiration of the six month term or (b) the senate does not



1 confirm the governor's successor nomination within the additional ninety  
2 days, the board member designated as acting chairperson shall no longer  
3 be able to serve as acting chairperson and the governor is prohibited  
4 from extending the powers of that acting chairperson or from designating  
5 another board member to serve as acting chairperson; and

6 (iv) A board member serving as the acting chairperson of the cannabis  
7 control board shall be deemed a state officer for purposes of section  
8 seventy-three of the public officers law.

9 (C) A majority of the voting board members of the board shall consti-  
10 tute a quorum for the purpose of conducting the business thereof and a  
11 majority vote of all the members in office shall be necessary for  
12 action. Provided, however, that a board member designated as an acting  
13 chairperson pursuant to this chapter shall have only one vote for  
14 purposes of conducting the business of the cannabis control board.

15 6. The cannabis control board and office of cannabis management shall  
16 have its principal office in the city of Albany, and maintain branch  
17 offices in the cities of New York and Buffalo and such other places as  
18 it may deem necessary.

19 The board shall establish appropriate procedures to ensure that hear-  
20 ing officers are shielded from ex parte communications with alleged  
21 violators and their attorneys and from other employees of the office of  
22 cannabis management and shall take such other steps as it shall deem  
23 necessary and proper to shield its judicial processes from unwarranted  
24 and inappropriate communications and attempts to influence.

25 7. Disqualification of members of the board and employees of the  
26 office of cannabis management. No member of the board or any officer,  
27 deputy, assistant, inspector or employee or spouse or minor child there-  
28 of shall have any interest, direct or indirect, either proprietary or by  
29 means of any loan, mortgage or lien, or in any other manner, in or on  
30 any premises where cannabis is manufactured or sold; nor shall they have  
31 any interest, direct or indirect, in any business wholly or partially  
32 devoted to the cultivation, manufacture, distribution, sale, transporta-  
33 tion or storage of cannabis, or own any stock in any corporation which  
34 has any interest, proprietary or otherwise, direct or indirect, in any  
35 premises where cannabis or hemp extract is cultivated or manufactured,  
36 distributed, or sold, or in any business wholly or partially devoted to  
37 the cultivation, manufacture, distribution, sale, transportation or  
38 storage of cannabis or hemp extract or receive any commission or profit  
39 whatsoever, direct or indirect, from any person applying for or receiv-  
40 ing any license or permit provided for in this chapter, or hold any  
41 other public office in the state or in any political subdivision except  
42 upon the written permission of the board, such member of the board or  
43 office of cannabis management or officer, deputy, assistant, inspector  
44 or employee thereof may hold the public office of notary public or  
45 member of a community board of education in the city school district of  
46 the city of New York. Anyone who violates any of the provisions of this  
47 section shall be removed.

48 § 8. Establishment of an office of cannabis management. There is here-  
49 by established, within the division of alcoholic beverage control, an  
50 independent office of cannabis management, which shall have exclusive  
51 jurisdiction to exercise the powers and duties provided by this chapter.  
52 The office shall exercise its authority by and through an executive  
53 director.

54 § 9. Executive director. The office shall exercise its authority,  
55 other than powers and duties specifically granted to the board, by and  
56 through an executive director nominated by the governor and with the

1 advice and consent of the senate. The executive director shall serve  
2 for a term of three years and once confirmed, may only be removed for  
3 good cause with appropriate notice. The executive director of the state  
4 office of cannabis management shall receive an annual salary not to  
5 exceed an amount appropriated therefor by the legislature and his or her  
6 expenses actually and necessarily incurred in the performance of his or  
7 her official duties, unless otherwise provided by the legislature.

8 § 10. Powers and duties of the cannabis control board. The cannabis  
9 control board or "board" shall have the following functions, powers and  
10 duties as provided for in this chapter:

11 1. Discretion to issue or refuse to issue any registration, license or  
12 permit provided for in this chapter, as follows: the chairperson, after  
13 receiving a recommendation and relevant application information from the  
14 office and providing such information to all board members, shall issue  
15 a preliminary determination on whether the license, registration or  
16 permit shall be granted, denied, or held for further action. Within  
17 fourteen days of the chairperson's preliminary determination, any board  
18 member may object to the chairperson's preliminary determination, or  
19 request the matter be brought before the full board for consideration.  
20 Any preliminary determination by the chairperson shall take effect four-  
21 teen days after it has been issued by the chairperson, provided that no  
22 board member objects or requests the matter be considered by the full  
23 board, as adopted by the board through resolution.

24 2. Sole discretion to limit, or not to limit, the number of registra-  
25 tions, licenses and permits of each class to be issued within the state  
26 or any political subdivision thereof, in a manner that prioritizes  
27 social and economic equity applicants with the goal of fifty percent  
28 awarded to such applicants, and considers small business opportunities  
29 and concerns, avoids market dominance in sectors of the industry, and  
30 reflects the demographics of the state.

31 3. Sole discretion to revoke, cancel or suspend for cause any regis-  
32 tration, license, or permit issued under this chapter and/or to impose a  
33 civil penalty for cause, after notice and an opportunity for a hearing,  
34 against any holder of a registration, license, or permit issued pursuant  
35 to this chapter.

36 4. To fix by rule and regulation the standards and requirements of  
37 cultivation, processing, packaging, marketing, and sale of medical  
38 cannabis, adult-use cannabis and cannabis product, and cannabinoid hemp  
39 and hemp extract, including but not limited to, the ability to regulate  
40 excipients, and the types, forms, and concentration of products which  
41 may be manufactured and/or processed, in order to ensure the health and  
42 safety of the public and the use of proper ingredients and methods in  
43 the manufacture of all medical, adult-use, cannabinoid hemp and hemp  
44 extract to be sold or consumed in the state and to ensure that products  
45 are not packaged, marketed, or otherwise sold in a way which targets  
46 minors or promotes increased use or cannabis use disorders.

47 5. To limit or prohibit, at any time of public emergency and without  
48 previous notice or advertisement, the cultivation, processing, distrib-  
49 ution or sale of any or all cannabis products, medical cannabis or  
50 cannabinoid hemp and hemp extract, for and during the period of such  
51 emergency.

52 6. To hold hearings, subpoena witnesses, compel their attendance,  
53 administer oaths, to examine any person under oath and in connection  
54 therewith to require the production of any books or records relative to  
55 the inquiry. A subpoena issued under this section shall be regulated by  
56 the civil practice law and rules.

1 7. To appoint any necessary directors, deputies, counsels, assistants,  
2 investigators, and other employees within the limits provided by appro-  
3 priation. Directors, deputies and counsels, including the chief equity  
4 officer, and confidential secretaries to board members shall be in the  
5 exempt class of the civil service. The other assistants, investigators  
6 and employees of the office shall all be in the competitive class of the  
7 civil service and shall be considered for purposes of article fourteen  
8 of the civil service law to be public employees of the state, and shall  
9 be assigned to the appropriate bargaining unit. Investigators so  
10 employed by the office shall be deemed to be peace officers only for the  
11 purposes of enforcing the provisions of this chapter or judgments or  
12 orders obtained for violation thereof, with all the powers set forth in  
13 section 2.20 of the criminal procedure law. Employees transferred to the  
14 office shall be transferred without further examination or qualification  
15 to the same or similar titles and shall remain in the same collective  
16 bargaining units and shall retain their respective civil service classi-  
17 fications, status and rights pursuant to their collective bargaining  
18 units and collective bargaining agreements. Employees serving in posi-  
19 tions in newly created titles shall be assigned to the appropriate  
20 collective bargaining unit as they would have been assigned to were such  
21 titles created prior to the establishment of the office of cannabis  
22 management. Any action taken under this subdivision shall be subject to  
23 and in accordance with the civil service law. The executive director  
24 shall appoint a deputy director for health and safety who shall be a  
25 licensed health care practitioner within the state and who shall oversee  
26 all clinical aspects of the office.

27 8. To inspect or provide authorization for the inspection at any time  
28 of any premises where medical cannabis, adult-use cannabis or cannabi-  
29 noid hemp and hemp extract is cultivated, processed, stored, distributed  
30 or sold.

31 9. To prescribe forms of applications for registrations, licenses and  
32 permits under this chapter and of all reports deemed necessary by the  
33 board.

34 10. To appoint such advisory groups and committees as deemed necessary  
35 to provide assistance to the board to carry out the purposes and objec-  
36 tives of this chapter.

37 11. To exercise the powers and perform the duties in relation to the  
38 administration of the board and the office of cannabis management as are  
39 necessary but not specifically vested by this chapter, including but not  
40 limited to budgetary and fiscal matters.

41 12. To develop and establish minimum criteria for certifying employees  
42 to work in the cannabis industry in positions requiring advanced train-  
43 ing and education.

44 13. To enter into contracts, memoranda of understanding, and agree-  
45 ments as deemed appropriate to effectuate the policy and purpose of this  
46 chapter.

47 14. To advise the office of cannabis management and/or urban develop-  
48 ment corporation in making low interest or zero-interest loans to quali-  
49 fied social and economic equity applicants as provided for in this chap-  
50 ter.

51 15. If public health, safety, or welfare imperatively requires emer-  
52 gency action, and incorporates a finding to that effect in an order,  
53 summary suspension of a license may be ordered, effective on the date  
54 specified in such order or upon service of a certified copy of such  
55 order on the licensee, whichever shall be later, pending proceedings for  
56 revocation or other action. These proceedings shall be promptly insti-

1 tuted and determined. In addition, the board may be directed to order  
2 the administrative seizure of product, issue a stop order, or take any  
3 other action necessary to effectuate and enforce the policy and purpose  
4 of this chapter.

5 16. To draft and provide for public comment and issue regulations,  
6 declaratory rulings, guidance and industry advisories.

7 17. To draft and provide an annual report on the effectiveness of this  
8 chapter. The annual report shall be prepared, in consultation with the  
9 division of the budget, the urban development corporation, the depart-  
10 ment of taxation and finance, the department of health, department of  
11 agriculture and markets, office of addiction services and supports,  
12 office of mental health, New York state police, department of motor  
13 vehicles and the division of criminal justice services. The report  
14 shall provide, but not be limited to, the following information:

15 (a) the number of registrations, licenses, and permits applied for by  
16 geographic region of the state; the number of registrations, licenses,  
17 and permits approved or denied by geographic region of the state;

18 (b) the economic and fiscal impacts associated with this chapter,  
19 including revenue from licensing or other fees, fines and taxation  
20 related to the cultivation, distribution and sale of cannabis for  
21 medical and adult-use and cannabinoid hemp and hemp extract in this  
22 state;

23 (c) specific programs and progress made by the cannabis control board  
24 and the office of cannabis management in achieving the goals of the  
25 social and economic equity plan, and other social justice goals includ-  
26 ing, but not limited to, restorative justice, minority- and women-owned  
27 businesses, distressed farmers and service disabled veterans;

28 (d) demographic data on owners and employees in the medical cannabis,  
29 adult-use cannabis and cannabinoid hemp and hemp extract industry;

30 (e) impacts to public health and safety, including substance use  
31 disorder;

32 (f) impacts associated with public safety, including, but not limited  
33 to, traffic-related issues, law enforcement, under-age prevention in  
34 relation to accessing adult-use cannabis, and efforts to eliminate the  
35 illegal market for cannabis products in New York;

36 (g) any other information or data deemed significant; and

37 (h) the board shall make recommendations regarding the appropriate  
38 level of taxation of adult-use cannabis, as well as changes necessary  
39 to: improve registration, licensing and permitting; promoting and  
40 encouraging social and economic equity applicants; improve and protect  
41 the public health and safety of New Yorkers; improve access and avail-  
42 ability for substance abuse treatment programs; and any other recommen-  
43 dations deemed necessary and appropriate. Such report shall be published  
44 on the office's website and presented to the governor, the majority  
45 leader of the senate and the speaker of the assembly, no later than  
46 January first, two thousand twenty-three and annually thereafter.

47 18. When an administrative decision is appealed to the board by an  
48 applicant, registered organization, licensee or permittee, issue a final  
49 determination of the office.

50 19. Approve the opening of new license application periods, and when  
51 new or additional licenses are made available pursuant to this chapter,  
52 provided, however, that the initial adult-use cannabis retail dispensary  
53 license application period shall be opened for all applicants at the  
54 same time.

55 20. Approve any price quotas or price controls set by the executive  
56 director as provided by this chapter.

1 21. Approve the office's social and economic equity plan pursuant to  
2 section eighty-four of this chapter.

3 22. To enter into tribal-state compacts with the New York state Indian  
4 nations and tribes, as defined by section two of the Indian law, author-  
5 izing such Indian nations or tribes to acquire, possess, manufacture,  
6 sell, deliver, transport, distribute or dispense adult-use cannabis  
7 and/or medical cannabis.

8 23. With the exception of promulgating rules and regulations, the  
9 board shall have the power to delegate any functions, powers and duties  
10 as provided for in this section to the executive director of the office  
11 of cannabis management. Any such delegation shall be through a resol-  
12 ution voted on and approved by the board members.

13 24. The board shall, two years after the first retail sale pursuant to  
14 this chapter, review the impact of licenses issued pursuant to article  
15 four of this chapter with substantial market share for any category of  
16 licensure, to determine if such licensees are impairing the achievement  
17 of the goals of inclusion of social equity licensees, fairness for small  
18 businesses and distressed farmers, adequate supplies of cannabis and  
19 prevention of dominant marketplace participation in the cannabis indus-  
20 try. The board may modify the terms of the licensee's license consistent  
21 with the determination and to better achieve those goals. Any such  
22 modification may be appealed by the licensee for a formal hearing as  
23 provided in section seventeen of this article. For any licensee such  
24 review shall include violations of New York state labor law and labor  
25 peace agreements. Further, an existing collective bargaining agreement  
26 shall not be infringed or voided by any licensee who after such review  
27 suffers from a reduction in market share.

28 § 11. Functions, powers and duties of the executive director; office  
29 of cannabis management. The executive director, as authorized by and  
30 through this chapter, shall have the following functions, powers and  
31 duties as provided for in this chapter:

32 1. To exercise the powers and perform the duties in relation to the  
33 administration of the office of cannabis management as are not specifi-  
34 cally vested by this chapter in, or delegated by, the cannabis control  
35 board.

36 2. To keep records in such form as they may prescribe of all registra-  
37 tions, licenses and permits issued and revoked within the state; such  
38 records shall be so kept as to provide ready information as to the iden-  
39 tity of all licensees including the names of the officers and directors  
40 of corporate licensees and the location of all licensed premises. The  
41 executive director may contract to furnish copies of the records of  
42 licenses and permits of each class and type issued within the state or  
43 any political subdivision thereof, for any license or permit year or  
44 term of years not exceeding five years.

45 3. To inspect or provide for the inspection of any premises where  
46 medical cannabis, adult-use cannabis, hemp cannabis are manufactured or  
47 sold.

48 4. To prescribe forms of applications for licenses and permits under  
49 this chapter and of all reports deemed necessary by the board.

50 5. To inspect or provide for the inspection of any licensed or permit-  
51 ted premises where medical, adult-use or hemp is cultivated, processed,  
52 stored, distributed or sold.

53 6. To prescribe forms of applications for registrations, licenses and  
54 permits under this chapter and of all reports deemed necessary by the  
55 board.

1 7. To delegate the powers provided in this section to such other offi-  
2 cers or employees as may be deemed appropriate by the executive direc-  
3 tor.

4 8. To exercise the powers and perform the duties as delegated by the  
5 board in relation to the administration of the office as are necessary,  
6 including but not limited to budgetary and fiscal matters.

7 9. To enter into contracts, memoranda of understanding, and agreements  
8 to effectuate the policy and purpose of this chapter.

9 10. To advise and assist the board in carrying out any of its func-  
10 tions, powers and duties.

11 11. To coordinate across state agencies and departments in order to  
12 research and study any changes in cannabis use and the impact that  
13 cannabis use and the regulated cannabis industry may have on access to  
14 cannabis products, public health, and public safety.

15 12. To issue guidance and industry advisories.

16 § 12. Chief equity officer. The board, by an affirmative vote of at  
17 least four members, shall appoint a chief equity officer. The chief  
18 equity officer shall receive an annual salary not to exceed an amount  
19 appropriated therefor by the legislature and their expenses actually and  
20 necessarily incurred in the performance of official duties, unless  
21 otherwise provided by the legislature.

22 1. The chief equity officer shall assist with the development and  
23 implementation of, and ensure the cannabis control board and the office  
24 of cannabis management's continued compliance with, the social and  
25 economic equity plan, required to be developed pursuant to article four  
26 of this chapter.

27 2. The chief equity officer shall establish public education program-  
28 ming dedicated to providing communities that have been impacted by  
29 cannabis prohibition with information detailing the licensing process  
30 and informing individuals of the support and resources that the office  
31 can provide to individuals and entities interested in participating in  
32 activity licensed under this chapter.

33 3. The chief equity officer shall provide a report to the board, no  
34 later than January first, two thousand twenty-three, and annually there-  
35 after, of their activities in ensuring compliance with the social and  
36 economic equity plan, required to be developed pursuant to article four  
37 of this chapter, and the board shall provide such report to the legisla-  
38 ture.

39 § 13. Rulemaking authority. 1. The board shall perform such acts,  
40 prescribe such forms and propose such rules, regulations and orders as  
41 it may deem necessary or proper to fully effectuate the provisions of  
42 this chapter.

43 2. The board shall, in consultation with the executive director and  
44 the chief equity officer, have the authority to promulgate any and all  
45 necessary rules and regulations governing the cultivation, manufacture,  
46 processing, transportation, distribution, testing, delivery, and sale of  
47 medical cannabis, adult-use cannabis, and cannabinoid hemp and hemp  
48 extract, including but not limited to the registration of organizations  
49 authorized to sell medical cannabis, the licensing and/or permitting of  
50 adult-use cannabis cultivators, processors, cooperatives, microbusiness,  
51 distributors, laboratories, and retailers, and the licensing of cannabi-  
52 noid hemp and hemp extract producers and processors pursuant to this  
53 chapter, including, but not limited to:

54 (a) prescribing forms and establishing application, reinstatement, and  
55 renewal fees;

1 (b) the qualifications and selection criteria for registration,  
2 licensing, or permitting;

3 (c) the books and records to be created and maintained by all regis-  
4 tered organizations, licensees, and permittees, including the reports to  
5 be made thereon to the office, and inspection of any and all books and  
6 records maintained by any registered organization, licensee, or permit-  
7 tee and on the premises of any registered organization, licensee, or  
8 permittee;

9 (d) methods of producing, processing, and packaging cannabis, medical  
10 cannabis, cannabis-infused products, concentrated cannabis, and cannabi-  
11 noid hemp and hemp extract; conditions of sanitation, and standards of  
12 ingredients, quality, and identity of cannabis products cultivated,  
13 processed, packaged, or sold by any registered organizations and licen-  
14 sees;

15 (e) security requirements for medical cannabis and adult-use cannabis  
16 retail dispensaries and premises where cannabis products, medical canna-  
17 bis, and cannabinoid hemp and hemp extract, are cultivated, produced,  
18 processed, or stored, and safety protocols for registered organizations,  
19 licensees and their employees;

20 (f) hearing procedures and additional causes for cancellation, suspen-  
21 sion, revocation, and/or civil penalties against any person registered,  
22 licensed, or permitted by the board; and

23 (g) the circumstances, manner and process by which an applicant,  
24 registered organization, licensee, or permittee, may apply to change or  
25 alter its previously submitted or approved owners, managers, members,  
26 directors, financiers, or interest holders.

27 3. The board shall promulgate rules and regulations that are designed  
28 to:

29 (a) prevent the distribution of adult-use cannabis or cannabis product  
30 to persons under twenty-one years of age, including the modification of  
31 tobacco vaping products for use with cannabis;

32 (b) prevent the revenue from the sale of cannabis from going to crimi-  
33 nal enterprises;

34 (c) prevent the diversion and inversion of cannabis from this state to  
35 other states and from other states into this state, insofar as cannabis  
36 remains federally prohibited;

37 (d) prevent cannabis, hemp, cannabinoid hemp and hemp extract activity  
38 that is legal under state law from being used as a cover or pretext for  
39 the trafficking of other illegal drugs or other illegal activity;

40 (e) inform the public about the dangers of driving while impaired and  
41 the public health consequences associated with the use of cannabis;

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

43 (g) inform the public about the prohibition on the possession and use  
44 of cannabis on federal property; and

45 (h) establish application, licensing, and permitting processes which  
46 ensure all material owners and interest holders are disclosed and that  
47 officials or other individuals with control over the approval of an  
48 application, permit, or license do not themselves have any interest in  
49 an application, license, or permit.

50 4. The board, in consultation with the department of agriculture and  
51 markets and the department of environmental conservation, shall promul-  
52 gate necessary rules and regulations governing the safe production of  
53 cannabis, including environmental and energy standards and restrictions  
54 on the use of pesticides and best practices for water and energy conser-  
55 vation.

1 5. Emergency rules and regulations: In adopting any emergency rule,  
2 the board shall comply with the provisions of subdivision six of section  
3 two hundred two of the state administrative procedure act and subdivi-  
4 sion three of section one hundred one-a of the executive law; provided,  
5 however, that notwithstanding the provisions of such laws:

6 (a) Such emergency rule may remain in effect for no longer than one  
7 hundred twenty days, unless within such time the board complies with the  
8 provisions of such laws and adopts the rule as a permanent rule;

9 (b) If, prior to the expiration of a rule adopted pursuant to this  
10 paragraph, the board finds that the readoption of such rule on an emer-  
11 gency basis or the adoption of a substantially similar rule on an emer-  
12 gency basis is necessary for the preservation of the public health,  
13 safety or general welfare the agency may only readopt the rule on an  
14 emergency basis or adopt a substantially similar rule on an emergency  
15 basis if on or before the date of such action the board has also submit-  
16 ted a notice of proposed rule making pursuant to subdivision six of  
17 section two hundred two of the state administrative procedure act and  
18 subdivision three of section one hundred one-a of the executive law. An  
19 emergency rule adopted pursuant to this paragraph may remain in effect  
20 for no longer than one hundred twenty days;

21 (c) An emergency rule adopted pursuant to this subdivision or a  
22 substantially similar rule adopted on an emergency basis may remain in  
23 effect for no longer than one hundred twenty days, but upon the expira-  
24 tion of such one hundred twenty-day period no further readoptions or  
25 adoptions of substantially similar rules shall be permitted for a period  
26 of one hundred twenty days. Nothing in this subdivision shall preclude  
27 the adoption of such rule by submitting a notice of adoption pursuant to  
28 subdivision five of section two hundred two of the state administrative  
29 procedure act; and

30 (d) Strict compliance with the provisions of this subdivision shall be  
31 required, and any emergency rule or substantially similar rule that does  
32 not so comply shall be void and of no legal effect.

33 6. The board shall have the authority to promulgate regulations  
34 governing the appropriate use and licensure of the manufacturing of  
35 cannabinoids, or other compounds contained within the cannabis plant,  
36 through any method other than planting, growing, cloning, harvesting, or  
37 other traditional means of plant agriculture.

38 § 14. State cannabis advisory board. 1. The state cannabis advisory  
39 board or "advisory board" is established within the office of cannabis  
40 management and directed to work in collaboration with the cannabis  
41 control board and the executive director to advise and issue recommenda-  
42 tions on the use of medical cannabis, adult-use cannabis and cannabinoid  
43 hemp and hemp extract in the state of New York, and shall govern and  
44 administer the New York state community grants reinvestment fund pursu-  
45 ant to section 99-kk of the state finance law.

46 2. The state cannabis advisory board shall consist of thirteen voting  
47 appointed members, along with a representative from the department of  
48 environmental conservation, the department of agriculture and markets,  
49 the office of children and family services, the department of labor, the  
50 department of health, the division of housing and community renewal, the  
51 office of addiction services and supports, and the department of educa-  
52 tion, serving as non-voting ex-officio members. The governor shall have  
53 seven appointments, the temporary president of the senate and the speak-  
54 er of the assembly shall each have three appointments to the board. The  
55 members shall be appointed to each serve three year terms and in the  
56 event of a vacancy, the vacancy shall be filled in the manner of the



1 original appointment for the remainder of the term. The appointed  
2 members and representatives shall receive no compensation for their  
3 services but shall be allowed their actual and necessary expenses  
4 incurred in the performance of their duties as board members.

5 3. Advisory board members shall have statewide geographic represen-  
6 tation that is balanced and diverse in its composition. Appointed  
7 members shall have an expertise in public and behavioral health,  
8 substance use disorder treatment, effective rehabilitative treatment for  
9 adults and juveniles, homelessness and housing, economic development,  
10 environmental conservation, job training and placement, criminal  
11 justice, and drug policy. Further, the advisory board shall include  
12 residents from communities most impacted by cannabis prohibition, people  
13 with prior drug convictions, the formerly incarcerated, and represen-  
14 tatives from the farming industry, cannabis industry, and organizations  
15 serving communities impacted by past federal and state drug policies.

16 4. The chairperson of the advisory board and the vice chairperson  
17 shall be elected from among the members of the advisory board by the  
18 members of such advisory board. The vice chairperson shall represent the  
19 advisory board in the absence of the chairperson at all official advi-  
20 sory board functions.

21 5. The advisory board shall make recommendations to the cannabis  
22 control board, the office and the legislature on cannabis and hemp  
23 cultivation, processing, distribution, transport, social and economic  
24 equity in the cannabis and hemp industries, criminal justice, public  
25 health and safety concerns, law enforcement related to cannabis and  
26 cannabis products, and on the testing and sale of cannabis and cannabis  
27 products.

28 6. The advisory board shall meet as frequently as its business may  
29 require. The advisory board shall enact and from time to time may amend  
30 bylaws in relation to its meetings and the transaction of its business.  
31 A majority of the total number of voting members which the board would  
32 have were there no vacancies, shall constitute a quorum and shall be  
33 required for the board to conduct business. All meetings of the advisory  
34 board shall be conducted in accordance with the provisions of article  
35 seven of the public officers law.

36 § 15. Disposition of moneys received for license fees. The board  
37 shall establish a scale of application, licensing, and renewal fees,  
38 based upon the cost of enforcing this chapter and the size of the canna-  
39 bis business being licensed, as follows:

40 1. The board shall charge each registered organization, licensee and  
41 permittee a registration, licensure or permit fee, and renewal fee, as  
42 applicable. The fees may vary depending upon the nature and scope of  
43 the different registration, licensure and permit activities.

44 2. The total fees assessed pursuant to this chapter shall be set at an  
45 amount that will generate sufficient total revenue to, at a minimum,  
46 fully cover the total costs of administering this chapter.

47 3. All registration and licensure fees shall be set on a scaled basis  
48 by the board, dependent on the size and capacity of the business and for  
49 social and economic equity applicants such fees may be assessed to  
50 accomplish the goals of this chapter.

51 4. The board shall deposit all fees collected in the New York state  
52 cannabis revenue fund established pursuant to section ninety-nine-ii of  
53 the state finance law.

54 § 16. Violations of cannabis laws or regulations; penalties and  
55 injunctions. 1. Any person who violates, disobeys or disregards any term  
56 or provision of this chapter or of any lawful notice, order or regu-

1 lation pursuant thereto for which a civil or criminal penalty is not  
2 otherwise expressly prescribed by law, shall be liable to the people of  
3 the state for a civil penalty of not to exceed five thousand dollars for  
4 every such violation.

5 2. The penalty provided for in subdivision one of this section may be  
6 recovered by an action brought by the board in any court of competent  
7 jurisdiction.

8 3. Such civil penalty may be released or compromised by the board  
9 before the matter has been referred to the attorney general, and where  
10 such matter has been referred to the attorney general, any such penalty  
11 may be released or compromised and any action commenced to recover the  
12 same may be settled and discontinued by the attorney general with the  
13 consent of the board.

14 4. It shall be the duty of the attorney general upon the request of  
15 the board to bring an action for an injunction against any person who  
16 violates, disobeys or disregards any term or provision of this chapter  
17 or of any lawful notice, order or regulation pursuant thereto; provided,  
18 however, that the executive director shall furnish the attorney general  
19 with such material, evidentiary matter or proof as may be requested by  
20 the attorney general for the prosecution of such an action.

21 5. It is the purpose of this section to provide additional and cumula-  
22 tive remedies, and nothing herein contained shall abridge or alter  
23 rights of action or remedies now or hereafter existing, nor shall any  
24 provision of this section, nor any action done by virtue of this  
25 section, be construed as estopping the state, persons or municipalities  
26 in the exercising of their respective rights.

27 § 17. Formal hearings; notice and procedure. 1. The board, or any  
28 person designated by them for this purpose, may issue subpoenas and  
29 administer oaths in connection with any hearing or investigation under  
30 or pursuant to this chapter, and it shall be the duty of the board and  
31 any persons designated by them for such purpose to issue subpoenas at  
32 the request of and upon behalf of the respondent.

33 2. The board and those designated by them shall not be bound by the  
34 laws of evidence in the conduct of hearing proceedings, but the determi-  
35 nation shall be founded upon preponderance of evidence to sustain it.

36 3. Notice and right of hearing as provided in the state administrative  
37 procedure act shall be served at least fifteen days prior to the date of  
38 the hearing, provided that, whenever because of danger to the public  
39 health, safety or welfare it appears prejudicial to the interests of the  
40 people of the state to delay action for fifteen days, the board may  
41 serve the respondent with an order requiring certain action or the  
42 cessation of certain activities immediately or within a specified period  
43 of less than fifteen days.

44 4. Service of notice of hearing or order shall be made by personal  
45 service or by registered or certified mail. Where service, whether by  
46 personal service or by registered or certified mail, is made upon an  
47 incompetent, partnership, or corporation, it shall be made upon the  
48 person or persons designated to receive personal service by article  
49 three of the civil practice law and rules.

50 5. At a hearing, that to the greatest extent practicable shall be  
51 reasonably near the respondent, the respondent may appear personally,  
52 shall have the right of counsel, and may cross-examine witnesses against  
53 him or her and produce evidence and witnesses on his or her behalf.

54 6. Following a hearing, the board may make appropriate determinations  
55 and issue a final order in accordance therewith.

1 7. The board may adopt, amend and repeal administrative rules and  
2 regulations governing the procedures to be followed with respect to  
3 hearings, such rules to be consistent with the policy and purpose of  
4 this chapter and the effective and fair enforcement of its provisions.

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

9 § 18. Ethics, transparency and accountability. No member of the board  
10 or office or any officer, deputy, assistant, inspector or employee, or  
11 spouse or minor child of such member, officer, assistant, inspector or  
12 employee thereof shall have any interest, direct or indirect, either  
13 proprietary or by means of any loan, mortgage or lien, or in any other  
14 manner, in or on any premises where adult-use cannabis, medical cannabis  
15 or cannabinoid hemp and hemp extract is cultivated, processed, distrib-  
16 uted or sold; nor shall he or she have any interest, direct or indirect,  
17 in any business wholly or partially devoted to the cultivation, process-  
18 ing, distribution, sale, transportation or storage of adult-use canna-  
19 bis, medical cannabis or cannabinoid hemp and hemp extract, or own any  
20 stock in any corporation which has any interest, proprietary or other-  
21 wise, direct or indirect, in any premises where adult use cannabis,  
22 medical cannabis or cannabinoid hemp and hemp extract is cultivated,  
23 processed, distributed or sold, or in any business wholly or partially  
24 devoted to the cultivation, processing, distribution, sale, transporta-  
25 tion or storage of adult-use cannabis, medical cannabis or cannabinoid  
26 hemp and hemp extract, or receive any commission or profit whatsoever,  
27 direct or indirect, from any person applying for or receiving any  
28 license or permit provided for in this chapter, or hold any other  
29 elected public office in the state or in any political subdivision.  
30 After notice and opportunity to be heard, anyone found to have knowingly  
31 violated any of the provisions of this section shall, after notice, be  
32 removed and shall divest themselves of such direct or indirect inter-  
33 ests, in addition to any other penalty provided by law.

34 § 19. Public health and education campaign. The office, in consulta-  
35 tion with the commissioners of the department of health, office of  
36 addiction services and supports, and office of mental health, shall  
37 develop and implement a comprehensive public health monitoring, surveil-  
38 lance and education campaign regarding the legalization of adult-use  
39 cannabis and the impact of cannabis use on public health and safety. The  
40 public health and education campaign shall also include general educa-  
41 tion to the public about the cannabis law.

42 § 20. Establish uniform policies and best practices. The office shall  
43 engage in activities with other states, territories, or jurisdictions in  
44 order to coordinate and establish uniform policies and best practices in  
45 cannabis regulation. These activities shall prioritize coordination with  
46 neighboring and regional states, and may include, but not be limited to,  
47 establishing working groups related to laboratory testing, product safe-  
48 ty, taxation, road safety, compliance and adherence with federal poli-  
49 cies which promote or facilitate cannabis research, commerce and/or  
50 regulation, and any other issues identified by the executive director.

51 ARTICLE 3  
52 MEDICAL CANNABIS

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

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

19 (b) the practitioner by training or experience is qualified to treat  
20 the condition;

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

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

27 2. The certification shall include: (a) the name, date of birth and  
28 address of the patient; (b) a statement that the patient has a condition  
29 and the patient is under the practitioner's care for the condition; (c)  
30 a statement attesting that all requirements of subdivision one of this  
31 section have been satisfied; (d) the date; and (e) the name, address,  
32 telephone number, and the signature of the certifying practitioner. The  
33 board may require by regulation that the certification shall be on a  
34 form provided by the office. The practitioner may state in the certifi-  
35 cation that, in the practitioner's professional opinion, the patient  
36 would benefit from medical cannabis only until a specified date. The  
37 practitioner may state in the certification that, in the practitioner's  
38 professional opinion, the patient is terminally ill and that the certifi-  
39 cation shall not expire until the patient dies.

40 3. In making a certification, the practitioner may consider the form  
41 of medical cannabis the patient should consume, including the method of  
42 consumption and any particular strain, variety, and quantity or percent-  
43 age of cannabis or particular active ingredient, and appropriate dosage.  
44 The practitioner may state in the certification any recommendation or  
45 limitation the practitioner makes, in his or her professional opinion,  
46 concerning the appropriate form or forms of medical cannabis and dosage.

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

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

1 6. No practitioner shall issue a certification under this section for  
2 themselves.

3 7. A registry identification card based on a certification shall  
4 expire one year after the date the certification is signed by the prac-  
5 titioner, except as provided for in subdivision eight of this section.

6 8. (a) If the practitioner states in the certification that, in the  
7 practitioner's professional opinion, the patient would benefit from  
8 medical cannabis only until a specified earlier date, then the registry  
9 identification card shall expire on that date; (b) if the practitioner  
10 states in the certification that in the practitioner's professional  
11 opinion the patient is terminally ill and that the certification shall  
12 not expire until the patient dies, then the registry identification card  
13 shall state that the patient is terminally ill and that the registration  
14 card shall not expire until the patient dies; (c) if the practitioner  
15 re-issues the certification to terminate the certification on an earlier  
16 date, then the registry identification card shall expire on that date  
17 and shall be promptly destroyed by the certified patient; (d) if the  
18 certification so provides, the registry identification card shall state  
19 any recommendation or limitation by the practitioner as to the form or  
20 forms of medical cannabis or dosage for the certified patient; and (e)  
21 the board shall make regulations to implement this subdivision.

22 9. (a) A certification may be a special certification if, in addition  
23 to the other requirements for a certification, the practitioner certi-  
24 fies in the certification that the patient's condition is progressive  
25 and degenerative or that delay in the patient's certified medical use of  
26 cannabis poses a risk to the patient's life or health.

27 (b) The office shall create the form to be used for a special certifi-  
28 cation and shall make that form available to be downloaded from the  
29 office's website.

30 10. Prior to issuing a certification a practitioner must complete, at  
31 a minimum, a two-hour course as determined by the board in regulation.  
32 For the purposes of this article a person's status as a practitioner is  
33 deemed to be a "license" for the purposes of section thirty-three  
34 hundred ninety of the public health law and shall be subject to the same  
35 revocation process.

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

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

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

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

55 4. the form or forms of medical cannabis that may be possessed by the  
56 certified patient, designated caregiver or designated caregiver facility

1 pursuant to a certification shall be in compliance with any recommenda-  
2 tion or limitation by the practitioner as to the form or forms of  
3 medical cannabis or dosage for the certified patient in the certifi-  
4 cation;

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

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

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

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

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

27 (i) the patient's certification, a new written certification shall be  
28 provided with a renewal application if required by the office;

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

30 (iii) the date of the certification;

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

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

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

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

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

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

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

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

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

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

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

55 (c) a statement that a false statement made in the application is  
56 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 board.

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 board.

20 5. No person may be a designated caregiver for more than four 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 board in regulations; provided, however,  
54 that if the office requires certified patients to submit photographs for  
55 this purpose, there shall be a reasonable accommodation of certified

1 patients who are confined to their homes due to their medical conditions  
2 and may therefore have difficulty procuring photographs;

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

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 board.

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.

26 14. The board shall verify to law enforcement personnel in an appro-  
27 priate case whether a registry identification card is valid and any  
28 other relevant information necessary to protect patients' rights to  
29 medical cannabis by confirming compliance with this article.

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

34 16. The board shall make regulations for special certifications, which  
35 shall include expedited procedures and which may require the applicant  
36 to submit additional documentation establishing the clinical basis for  
37 the special certification. If the board has not established and made  
38 available a form for a registry application or renewal application, then  
39 in the case of a special certification, a registry application or  
40 renewal application that otherwise conforms with the requirements of  
41 this section shall not require the use of a form.

42 § 33. Registration as a designated caregiver facility. 1. To obtain,  
43 amend or renew a registration as a designated caregiver facility, the  
44 facility shall file a registry application with the office. The registry  
45 application or renewal application shall include:

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

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

48 (c) name, title, and signature of an authorized facility represen-  
49 tative;

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

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

54 (f) any other information that may be required by the board.

55 2. Prior to issuing or renewing a designated caregiver facility regis-  
56 tration, the office may verify the information submitted by the appli-



1 cant. The applicant shall provide, at the office's request, such infor-  
2 mation and documentation, including any consents or authorizations that  
3 may be necessary for the office to verify the information.

4 3. The office shall approve, deny or determine incomplete or inaccur-  
5 ate an initial or renewal application within thirty days of receipt of  
6 the application. If the application is approved within the thirty-day  
7 period, the office shall issue a registration as soon as is reasonably  
8 practicable.

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

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

17 § 34. Registered organizations. 1. A registered organization shall be  
18 a for-profit business entity or not-for-profit corporation organized for  
19 the purpose of acquiring, possessing, manufacturing, selling, deliver-  
20 ing, transporting, distributing or dispensing cannabis for certified  
21 medical use.

22 2. The acquiring, possession, manufacture, sale, delivery, transport-  
23 ing, distributing or dispensing of medical cannabis by a registered  
24 organization under this article in accordance with its registration  
25 under this article or a renewal thereof shall be lawful under this chap-  
26 ter.

27 3. Each registered organization shall contract with an independent  
28 laboratory permitted by the board to test the medical cannabis produced  
29 by the registered organization. The board shall approve the laboratories  
30 used by the registered organization, including sampling and testing  
31 protocols and standards used by the laboratories, and may require that  
32 the registered organization use a particular testing laboratory. The  
33 board is authorized to issue regulations requiring the laboratory to  
34 perform certain tests and services.

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

50 (b) The proprietor of a registered organization shall file or cause to  
51 be filed any receipt and certification information with the office by  
52 electronic means on a real-time basis as the board shall require by  
53 regulation. When filing receipt and certification information electron-  
54 ically pursuant to this paragraph, the proprietor of the registered  
55 organization shall dispose of any electronically recorded prescription  
56 information in such manner as the board shall by regulation require.

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

5 (b) When dispensing medical cannabis to a certified patient or desig-  
6 nated caregiver, the registered organization: (i) shall not dispense an  
7 amount greater than a sixty-day supply to a certified patient until the  
8 certified patient has exhausted all but a seven day supply provided  
9 pursuant to a previously issued certification; and (ii) shall verify the  
10 information in subparagraph (i) of this paragraph by consulting the  
11 prescription monitoring program registry under this article.

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

16 6. When a registered organization sells, delivers, distributes or  
17 dispenses medical cannabis to a certified patient or designated caregiv-  
18 er, it shall provide to that individual a safety insert, developed by  
19 the registered organization subject to regulations issued by the board  
20 and include, but not be limited to, information on:

21 (a) methods for administering medical cannabis,

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

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

25 (d) other information as determined by the board.

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

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

40 (b) a felony conviction for hiring, employing or using a minor in  
41 transporting, carrying, selling, giving away, preparing for sale, or  
42 peddling, any controlled substance, or selling, offering to sell,  
43 furnishing, offering to furnish, administering, or giving any controlled  
44 substance to a minor.

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

49 8. Manufacturing of medical cannabis by a registered organization  
50 shall only be done in a secure facility located in New York state, which  
51 may include a greenhouse. The board shall promulgate regulations estab-  
52 lishing requirements for such facilities.

53 9. Dispensing of medical cannabis by a registered organization shall  
54 only be done in an indoor, enclosed, secure facility located in New York  
55 state. The board shall promulgate regulations establishing requirements  
56 for such facilities.

1 10. A registered organization may contract with a person or entity to  
2 provide facilities, equipment or services that are ancillary to the  
3 registered organization's functions or activities under this article  
4 including, but not limited to, shipping, maintenance, construction,  
5 repair, and security, provided that the person or entity shall not  
6 perform any function or activity directly involving the planting, grow-  
7 ing, tending, harvesting, processing, or packaging of cannabis plants,  
8 medical cannabis, or medical cannabis products being produced by the  
9 registered organization; or any other function directly involving manu-  
10 facturing or retailing of medical cannabis. All laws and regulations  
11 applicable to such facilities, equipment, or services shall apply to the  
12 contract. The registered organization and other parties to the contract  
13 shall each be responsible for compliance with such laws and regulations  
14 under the contract. The board may make regulations consistent with this  
15 article relating to contracts and parties to contracts under this subdi-  
16 vision.

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

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

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

39 14. The board is authorized to make rules and regulations restricting  
40 the advertising and marketing of medical cannabis.

41 15. A registered organization shall operate in accordance with minimum  
42 operating and recordkeeping requirements determined by the board in  
43 regulation.

44 § 35. Registering of registered organizations. 1. (a) An applicant  
45 for registration as a registered organization under section thirty-four  
46 of this article shall include such information prepared in such manner  
47 and detail as the board may require, including but not limited to:

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

50 (ii) that the applicant:

51 (A) is of good moral character;

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

1 (C) is able to maintain effective security and control to prevent  
2 diversion, abuse, and other illegal conduct relating to the cannabis;  
3 and

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

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

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

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

19 (A) any position of management, interest or ownership during the  
20 preceding ten years of a ten per centum or greater interest in any other  
21 cannabis business, or applicant, located in or outside this state, manu-  
22 facturing or distributing drugs including indirect management, interest,  
23 or ownership of parent companies, subsidiaries, or affiliates;

24 (B) whether such person or any such business has been convicted of a  
25 felony or had a registration or license suspended or revoked in any  
26 administrative or judicial proceeding, and if applicable, the history of  
27 violations or administrative penalties with respect to any license to  
28 cultivate, manufacture, distribute or sell adult-use cannabis or medical  
29 cannabis; and

30 (C) such other information as the board may reasonably require.

31 2. The applicant shall be under a continuing duty to report to the  
32 office any change in facts or circumstances reflected in the application  
33 or any newly discovered or occurring fact or circumstance which is  
34 required to be included in the application.

35 3. (a) The board shall grant a registration or amendment to a regis-  
36 tration under this section if they are satisfied that:

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

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

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

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

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

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

51 (B) whether the registered organization is a minority and/or woman  
52 owned business enterprise, a service-disabled veteran-owned business, or  
53 from communities disproportionately impacted by the enforcement of canna-  
54 bis prohibition;

55 (C) whether the registered organization provides education and  
56 outreach to practitioners;

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

3 (E) the affordability of medical cannabis products offered by the  
4 registered organization;

5 (F) whether the registered organization is culturally, linguistically,  
6 and medically competent to provide services to unserved and underserved  
7 areas; and

8 (G) whether the registered organization promotes racial, ethnic, and  
9 gender diversity in their workforce;

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

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

17 (viii) the applicant satisfies any other conditions as determined by  
18 the board.

19 (b) If the board is not satisfied that the applicant should be issued  
20 a registration, he or she shall notify the applicant in writing of those  
21 factors upon which further evidence is required. Within thirty days of  
22 the receipt of such notification, the applicant may submit additional  
23 material to the board or demand a hearing, or both.

24 (c) The fee for a registration under this section shall be an amount  
25 determined by the board in regulations; provided, however, if the regis-  
26 tration is issued for a period greater than two years the fee shall be  
27 increased, pro rata, for each additional month of validity.

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

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

31 (ii) which activities of a registered organization are permitted by  
32 the registration;

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

35 (iv) such other information as the board shall reasonably provide to  
36 assure compliance with this article.

37 (e) Upon application of a registered organization, a registration may  
38 be amended to allow the registered organization to relocate within the  
39 state or to add or delete permitted registered organization activities  
40 or facilities. The fee for such amendment shall be determined by the  
41 board in regulation and be based off the administrative burden to proc-  
42 ess and review the amendment by the office, provided no fee shall be  
43 greater than two thousand dollars.

44 4. A registration issued under this section shall be valid for two  
45 years from the date of issue, except that in order to facilitate the  
46 renewals of such registrations, the board may upon the initial applica-  
47 tion for a registration, issue some registrations which may remain valid  
48 for a period of time greater than two years but not exceeding an addi-  
49 tional eleven months.

50 5. (a) An application for the renewal of any registration issued  
51 under this section shall be filed with the board not more than six  
52 months nor less than four months prior to the expiration thereof. A  
53 late-filed application for the renewal of a registration may, in the  
54 discretion of the board, be treated as an application for an initial  
55 license.

1 (b) The application for renewal shall include such information  
2 prepared in the manner and detail as the board may require, including  
3 but not limited to:

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

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

9 (A) each incident or alleged incident involving the theft, loss, or  
10 possible diversion of medical cannabis manufactured or distributed by  
11 the applicant; and

12 (B) compliance by the applicant with the laws of the state with  
13 respect to the cultivation, manufacture, distribution, or sale of  
14 medical cannabis or adult-use cannabis, where applicable.

15 (c) An applicant for renewal shall be under a continuing duty to  
16 report to the board any change in facts or circumstances reflected in  
17 the application or any newly discovered or occurring fact or circum-  
18 stance which is required to be included in the application and to obtain  
19 approval prior to any material change in management, interest or owner-  
20 ship.

21 (d) If the board is not satisfied that the registered organization  
22 applicant is entitled to a renewal of the registration, the board shall  
23 within a reasonably practicable time as determined by the executive  
24 director, serve upon the registered organization or its attorney of  
25 record in person or by registered or certified mail an order directing  
26 the registered organization to show cause why its application for  
27 renewal should not be denied. The order shall specify in detail the  
28 respects in which the applicant has not satisfied the board that the  
29 registration should be renewed.

30 (e) Within a reasonably practicable time as determined by the board of  
31 such order, the applicant may submit additional material to the board or  
32 demand a hearing or both; if a hearing is demanded the board shall fix a  
33 date as soon as reasonably practicable.

34 6. (a) The board shall renew a registration unless he or she deter-  
35 mines and finds that:

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

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

40 (iii) it is not in the public interest to renew the registration  
41 because the number of registered organizations in an area is excessive  
42 to reasonably serve the area;

43 (iv) the applicant has either violated or terminated its labor peace  
44 agreement; or

45 (v) the applicant has substantively violated the laws of another  
46 jurisdiction, in which they operate or have operated a cannabis license  
47 or registration, related to the operation of a cannabis business.

48 (b) For purposes of this section, proof that a registered organiza-  
49 tion, during the period of its registration, has failed to maintain  
50 effective control against diversion, violates any provision of this  
51 article, or has knowingly or negligently failed to comply with applica-  
52 ble state laws relating to the activities in which it engages under the  
53 registration, may constitute grounds for suspension, termination or  
54 limitation of the registered organization's registration or as deter-  
55 mined by the board. The registered organization shall also be under a  
56 continuing duty to report to the office any material change or fact or

1 circumstance to the information provided in the registered organiza-  
2 tion's application.

3 7. The board may suspend or terminate the registration of a registered  
4 organization, on grounds and using procedures under this article relat-  
5 ing to a license, to the extent consistent with this article. The board  
6 shall suspend or terminate the registration in the event that a regis-  
7 tered organization violates or terminates the applicable labor peace  
8 agreement. Conduct in compliance with this article which may violate  
9 conflicting federal law, shall not be grounds to suspend or terminate a  
10 registration.

11 8. A registered organization that manufactures medical cannabis may  
12 have no more than four dispensing sites wholly owned and operated by  
13 such registered organization. Such registered organization may have an  
14 additional four dispensing sites; provided, however, that the first two  
15 additional dispensing sites shall be located in underserved or unserved  
16 geographic locations, as determined by the board. The board shall ensure  
17 that such registered organizations and dispensing sites are geograph-  
18 ically distributed across the state and that their ownership reflects  
19 the demographics of the state.

20 9. In coordination with the chief equity officer the board shall  
21 register additional registered organizations to provide services to  
22 unserved and underserved areas of the state. Pursuant to the social and  
23 economic equity plan established by section eighty-seven of this chap-  
24 ter, those additional registered organizations shall be reflective of  
25 the demographics of the state, be representative of communities dispro-  
26 portionately impacted by cannabis prohibition, and be culturally,  
27 linguistically, and medically competent to serve unserved and under-  
28 served areas of the state. The board shall actively promote racial,  
29 ethnic, and gender diversity when registering additional registered  
30 organizations.

31 § 36. Reports of registered organizations. 1. The board shall, by  
32 regulation, require each registered organization to file reports by the  
33 registered organization during a particular period. The board shall  
34 determine the information to be reported and the forms, time, and manner  
35 of the reporting.

36 2. The board shall, by regulation, require each registered organiza-  
37 tion to adopt and maintain security, tracking, record keeping, record  
38 retention and surveillance systems, relating to all medical cannabis at  
39 every stage of acquiring, possession, manufacture, sale, delivery,  
40 transporting, distributing, or dispensing by the registered organiza-  
41 tion, subject to regulations of the board.

42 § 37. Evaluation; research programs; report by board. 1. The board  
43 may provide for the analysis and evaluation of the operation of this  
44 article. The board may enter into agreements with one or more persons,  
45 not-for-profit corporations or other organizations, for the performance  
46 of an evaluation of the implementation and effectiveness of this arti-  
47 cle.

48 2. The board may develop, seek any necessary federal approval for, and  
49 carry out research programs relating to medical use of cannabis. Partic-  
50 ipation in any such research program shall be voluntary on the part of  
51 practitioners, patients, and designated caregivers.

52 3. The board shall report every two years, beginning two years after  
53 the effective date of this article, to the governor and the legislature  
54 on the medical use of cannabis under this article and make appropriate  
55 recommendations.

1 § 38. Cannabis research license. 1. The board shall establish a  
2 cannabis research license that permits a licensee to produce, process,  
3 purchase and/or possess cannabis for the following limited research  
4 purposes:

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

6 (b) to conduct clinical investigations of cannabis-derived drug  
7 products;

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

10 (d) to conduct genomic or agricultural research.

11 2. As part of the application process for a cannabis research license,  
12 an applicant must submit to the board a description of the research that  
13 is intended to be conducted as well as the amount of cannabis to be  
14 grown or purchased. The board shall review an applicant's research  
15 project and determine whether it meets the requirements of subdivision  
16 one of this section. In addition, the board shall assess the application  
17 based on the following criteria:

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

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

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

27 3. A cannabis research licensee may only sell cannabis grown or within  
28 its operation to other cannabis research licensees. The board may revoke  
29 a cannabis research license for violations of this section.

30 4. A cannabis research licensee may contract with an institution of  
31 higher education, including but not limited to a hospital within the  
32 state university of New York, to perform research in conjunction with  
33 such institution. All research projects, entered into under this  
34 section must be approved by the board and meet the requirements of  
35 subdivision one of this section.

36 5. In establishing a cannabis research license, the board may adopt  
37 regulations on the following:

38 (a) application requirements;

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

41 (c) conditions for license revocation;

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

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

46 (f) licensee reporting requirements;

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

50 (h) any additional requirements deemed necessary by the board.

51 6. A cannabis research license issued pursuant to this section must be  
52 issued in the name of the applicant and specify the location at which  
53 the cannabis researcher intends to operate, which must be within the  
54 state of New York.



1 7. The application fee for a cannabis research license shall be deter-  
2 mined by the board on an annual basis and may be based on the size,  
3 scope and duration of the research proposed.

4 8. Each cannabis research licensee shall issue an annual report to the  
5 board. The board shall review such report and make a determination as to  
6 whether the research project continues to meet the research qualifica-  
7 tions under this section.

8 § 39. Registered organizations and adult-use cannabis. The board shall  
9 have the authority to grant some or all of the registered organizations  
10 registered with the department of health and currently registered and in  
11 good standing with the office, the ability to obtain adult-use cannabis  
12 licenses pursuant to article four of this chapter subject to any fees,  
13 rules or conditions prescribed by the board in regulation.

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

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

19 § 41. Home cultivation of medical cannabis. Certified patients twenty-  
20 ty-one years of age or older may cultivate cannabis for personal use.  
21 Designated caregivers twenty-one years of age or older, caring for  
22 certified patients either younger than twenty-one years of age or whose  
23 physical or cognitive impairments prevent them from cultivating canna-  
24 bis, may cultivate cannabis for use by such patients, provided that no  
25 other caregiver is growing for said patient or patients. All culti-  
26 vation under this section shall be in accordance with section 222.15 of  
27 the penal law and any regulations made by the board, provided that the  
28 maximum number of cannabis plants a designated caregiver is authorized  
29 to grow is proportionately increased for each patient they are growing  
30 for.

31 § 42. Protections for the medical use of cannabis. 1. Certified  
32 patients, designated caregivers, designated caregiver facilities and  
33 employees of designated caregiver facilities, practitioners, registered  
34 organizations and the employees of registered organizations, and canna-  
35 bis researchers shall not be subject to arrest, prosecution, or penalty  
36 in any manner, or denied any right or privilege, including but not  
37 limited to civil penalty or disciplinary action by a business or occupa-  
38 tional or professional licensing board or bureau, solely for the certi-  
39 fied medical use or manufacture of cannabis, or for any other action or  
40 conduct in accordance with this article.

41 2. Being a certified patient shall be deemed to be having a "disabili-  
42 ty" under article fifteen of the executive law, section forty-c of the  
43 civil rights law, sections 240.00, 485.00, and 485.05 of the penal law,  
44 and section 200.50 of the criminal procedure law. This subdivision shall  
45 not bar the enforcement of a policy prohibiting an employee from  
46 performing his or her employment duties while impaired by a controlled  
47 substance. This subdivision shall not require any person or entity to do  
48 any act that would put the person or entity in direct violation of  
49 federal law or cause it to lose a federal contract or funding.

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

54 4. (a) Certification applications, certification forms, any certified  
55 patient information contained within a database, and copies of registry  
56 identification cards shall be deemed exempt from public disclosure under

1 sections eighty-seven and eighty-nine of the public officers law. Upon  
 2 specific request by a certified patient to the office, the office shall  
 3 verify the requesting patient's status as a valid certified patient to  
 4 the patient's school or employer or other designated party, to ensure  
 5 compliance with the protections afforded by this section.

6 (b) The name, contact information, and other information relating to  
 7 practitioners registered with the board under this article shall be  
 8 public information and shall be maintained on the board's website acces-  
 9 sible to the public in searchable form. However, if a practitioner noti-  
 10 fies the board in writing that he or she does not want his or her name  
 11 and other information disclosed, that practitioner's name and other  
 12 information shall thereafter not be public information or maintained on  
 13 the board's website, unless the practitioner cancels the request.

14 5. A person currently under parole, probation or other state or local  
 15 supervision, or released on bail awaiting trial may not be punished or  
 16 otherwise penalized for conduct allowed under this article.

17 6. Employees who use medical cannabis shall be afforded the same  
 18 rights, procedures and protections that are available and applicable to  
 19 injured workers under the workers' compensation law, or any rules or  
 20 regulations promulgated thereunder, when such injured workers are  
 21 prescribed medications that may prohibit, restrict, or require the  
 22 modification of the performance of their duties.

23 § 43. Regulations. The board shall promulgate regulations to implement  
 24 this article. The cannabis advisory board may make recommendations to  
 25 the board.

26 § 44. Suspend; terminate. Based upon the recommendation of the board,  
 27 executive director and/or the superintendent of state police that there  
 28 is a risk to the public health or safety, the governor may immediately  
 29 suspend or terminate all licenses issued to registered organizations.

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

37 ARTICLE 4  
 38 ADULT-USE CANNABIS

- 39 Section 61. License application.  
 40 62. Information to be requested in applications for licenses.  
 41 63. Fees.  
 42 64. Selection criteria.  
 43 65. Limitations of licensure; duration.  
 44 66. License renewal.  
 45 67. Amendments; changes in ownership and organizational struc-  
 46 ture.  
 47 68. Adult-use cultivator license.  
 48 68-a. Registered organization adult-use cultivator processor  
 49 distributor retail dispensary license.  
 50 68-b. Registered organization adult-use cultivator, processor  
 51 and distributor license.  
 52 69. Adult-use processor license.  
 53 70. Adult-use cooperative license.  
 54 71. Adult-use distributor license.

- 1 72. Adult-use retail dispensary license.
- 2 73. Microbusiness license.
- 3 74. Delivery license.
- 4 75. Nursery license.
- 5 76. Notification to municipalities of adult-use retail dispensary or on-site consumption license.
- 6
- 7 77. Adult-use on-site consumption license; provisions governing on-site consumption licenses.
- 8
- 9 78. Record keeping and tracking.
- 10 79. Inspections and ongoing requirements.
- 11 80. Adult-use cultivators, processors or distributors not to be interested in retail dispensaries.
- 12
- 13 81. Packaging, labeling, and administration of adult-use cannabis products.
- 14
- 15 82. Laboratory testing.
- 16 83. Provisions governing the cultivation and processing of adult-use cannabis.
- 17
- 18 84. Provisions governing the distribution of adult-use cannabis.
- 19
- 20 85. Provisions governing adult-use cannabis retail dispensaries.
- 21
- 22 86. Adult-use cannabis advertising and marketing.
- 23 87. Social and economic equity, minority and women-owned businesses, distressed farmers and service-disabled veterans; incubator program.
- 24
- 25
- 26 88. Data collection and reporting.
- 27 89. Regulations.

28 § 61. License application. 1. Any person may apply to the board for a  
 29 license to cultivate, process, distribute, deliver or dispense cannabis  
 30 within this state for sale. Such application shall be in writing and  
 31 verified and shall contain such information as the board shall require.  
 32 Such application shall be accompanied by a check or draft for the amount  
 33 required by this article for such license. If the board shall approve  
 34 the application, it shall issue a license in such form as shall be  
 35 determined by its rules. Such license shall contain a description of the  
 36 licensed premises and in form and in substance shall be a license to the  
 37 person therein specifically designated to cultivate, process, distrib-  
 38 ute, deliver or dispense cannabis in the premises therein specifically  
 39 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-one of the penal law took effect, a conviction for a violation of  
 47 article two hundred twenty-one of the penal law, or a conviction for a  
 48 violation of article two hundred twenty-two of the penal law after the  
 49 effective date of this chapter.

50 § 62. Information to be requested in applications for licenses. 1.  
 51 The board shall have the authority to prescribe the manner and form in  
 52 which an application must be submitted to the office for licensure under  
 53 this article.

54 2. The board is authorized to adopt regulations, including by emergen-  
 55 cy rule, establishing information which must be included on an applica-  
 56 tion for licensure under this article. Such information may include, but

1 is not limited to: information about the applicant's identity, includ-  
2 ing racial and ethnic diversity; ownership and investment information,  
3 including the corporate structure; evidence of good moral character,  
4 including the submission of fingerprints by the applicant to the divi-  
5 sion of criminal justice services; information about the premises to be  
6 licensed; financial statements; and any other information prescribed by  
7 regulation.

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

13 4. All license or permit applications shall be accompanied by a check,  
14 draft or other forms of payment as the board may require or authorize in  
15 the amount required by this article for such license or permit.

16 5. If there are any proposed changes, after the filing of the applica-  
17 tion or the granting of a license or permit, in any of the facts  
18 required to be set forth in such application, a supplemental statement  
19 giving notice of such proposed change, cost and source of money involved  
20 in the change, duly verified or affirmed, shall be filed with the board  
21 at least thirty days prior to such proposed change. Failure to do so  
22 shall, if willful and deliberate, be cause for denial or revocation of  
23 the license.

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

34 7. The board may waive the submission of non-material information or  
35 documentation described in this section, the waiver of which would not  
36 be inconsistent with the purposes and goals set forth in this article,  
37 for any category of license or permit, provided that it shall not be  
38 permitted to waive the requirement for submission of any such category  
39 of information solely for an individual applicant or applicants.

40 8. The board pursuant to regulation, may wholly prohibit and/or  
41 prescribe specific criteria under which it will consider and allow  
42 limited transfers or changes of ownership, interest, or control during  
43 the registration or license application period and/or up to two years  
44 after an approved applicant commences licensed activities.

45 § 63. Fees. 1. The board shall have the authority to charge applicants  
46 for licensure under this article a non-refundable application fee. Such  
47 fee may be based on the type of licensure sought, cultivation and/or  
48 production volume, or any other factors deemed reasonable and appropri-  
49 ate by the board to achieve the policy and purpose of this chapter.

50 1-a. The board shall also have the authority to assess a registered  
51 organization with a one-time special licensing fee for a registered  
52 organization adult-use cultivator processor, distributor retail dispen-  
53 sary license. Such fee shall be assessed at an amount to adequately  
54 fund social and economic equity and incubator assistance pursuant to  
55 this article and paragraph (c) of subdivision three of section ninety-  
56 nine-ii of the state finance law. Provided, however, that the board

1 shall not allow registered organizations to dispense adult-use cannabis  
2 from more than three of their medical cannabis dispensing locations.  
3 The timing and manner in which registered organizations may be granted  
4 such authority shall be determined by the board in regulation.

5 2. The board shall have the authority to charge licensees a biennial  
6 license fee. Such fee shall be based on the amount of cannabis to be  
7 cultivated, processed, distributed and/or dispensed by the licensee or  
8 the gross annual receipts of the licensee for the previous license peri-  
9 od, and any other factors deemed reasonable and appropriate by the  
10 board.

11 3. The board shall waive or reduce fees pursuant to this section for  
12 social and economic equity applicants.

13 § 64. Selection criteria. 1. The board shall develop regulations for  
14 use by the office in determining whether or not an applicant should be  
15 granted the privilege of an initial adult-use cannabis license, based  
16 on, but not limited to, the following criteria:

17 (a) the applicant is a social and economic equity applicant;

18 (b) the applicant will be able to maintain effective control against  
19 the illegal diversion or inversion of cannabis;

20 (c) the applicant will be able to comply with all applicable state  
21 laws and regulations;

22 (d) the applicant and its officers are ready, willing, and able to  
23 properly carry on the activities for which a license is sought including  
24 with assistance from the social and economic equity and incubator  
25 program, if applicable;

26 (e) where appropriate and applicable, the applicant possesses or has  
27 the right to use sufficient land, buildings, and equipment to properly  
28 carry on the activity described in the application or has a plan to do  
29 so if qualifying as a social and economic equity applicant;

30 (f) the applicant qualifies as a social and economic equity applicant  
31 or sets out a plan for benefiting communities and people dispropor-  
32 tionally impacted by enforcement of cannabis laws;

33 (g) it is in the public interest that such license be granted, taking  
34 into consideration, but not limited to, the following criteria:

35 (i) that it is a privilege, and not a right, to cultivate, process,  
36 distribute, and sell adult-use cannabis;

37 (ii) the number, classes, and character of other licenses in proximity  
38 to the location and in the particular municipality, subdivision thereof  
39 or geographic boundary as established by the board;

40 (iii) evidence that all necessary licenses and permits have been or  
41 will be obtained from the state and all other relevant governing bodies;

42 (iv) effect of the grant of the license on pedestrian or vehicular  
43 traffic, and parking, in proximity to the location;

44 (v) the existing noise level at the location and any increase in noise  
45 level that would be generated by the proposed premises;

46 (vi) the ability to increase climate resiliency and minimize or elimi-  
47 nate adverse environmental impacts, including but not limited to water  
48 usage, energy usage, carbon emissions, waste, pollutants, harmful chemi-  
49 cals and single use plastics;

50 (vii) the effect on the production, price and availability of cannabis  
51 and cannabis products;

52 (viii) the applicant's history of violations and compliance with the  
53 laws of another jurisdiction, in which they operate or have operated a  
54 cannabis license or registration, related to the operation of a cannabis  
55 business;

1 (ix) the applicant's history of violations related to the operation of  
2 a business, including but not limited to, violations related to labor  
3 laws, federal occupational safety and health law and tax compliance; and

4 (x) any other factors specified by law or regulation that are relevant  
5 to determine that granting a license would promote public convenience  
6 and advantage, public health and safety and the public interest of the  
7 state, county or community.

8 (h) the applicant and its managing officers are of good moral charac-  
9 ter and do not have an ownership or controlling interest in more  
10 licenses or permits than allowed by this chapter, or any regulations  
11 promulgated hereunder;

12 (i) the applicant has entered into a labor peace agreement with a  
13 bona-fide labor organization that is actively engaged in representing or  
14 attempting to represent the applicant's employees, and the maintenance  
15 of such a labor peace agreement shall be an ongoing material condition  
16 of licensure. In evaluating applications from entities with twenty-five  
17 or more employees, the office shall give consideration to whether appli-  
18 cants have entered into an agreement with a statewide or local bona-fide  
19 building and construction trades organization for construction work on  
20 its licensed facilities;

21 (j) the applicant will contribute to communities and people dispropor-  
22 tionately harmed by enforcement of cannabis laws through including, but  
23 not limited to, the social responsibility framework as provided in  
24 section sixty-six of this article and report these contributions to the  
25 board;

26 (k) if the application is for an adult-use cultivator or processor  
27 license, the environmental and energy impact, including compliance with  
28 energy standards, of the facility to be licensed;

29 (l) the applicant satisfies any other conditions as determined by the  
30 board; and

31 (m) if the applicant is a registered organization, the organization's  
32 maintenance of effort in manufacturing and/or dispensing and/or research  
33 of medical cannabis for certified patients and caregivers.

34 2. If the board is not satisfied that the applicant should be issued a  
35 license, the executive director shall notify the applicant in writing of  
36 the specific reason or reasons recommended by the board for denial.

37 3. The state cannabis advisory board shall have the authority to  
38 recommend to the board the number of licenses issued pursuant to this  
39 article to ensure a competitive market where no licensee is dominant in  
40 the statewide marketplace or in any individual category of licensing, to  
41 actively promote and potentially license social and economic equity  
42 applicants, and carry out the goals of this chapter.

43 § 65. Limitations of licensure; duration. 1. No license of any kind  
44 may be issued to a person under the age of twenty-one years, nor shall  
45 any licensee employ anyone under the age of eighteen years. Any employ-  
46 ee eighteen years of age or older but under twenty-one years of age may  
47 not have direct interaction with customers inside a licensed retail  
48 store.

49 2. (a) No licensee shall sell, deliver, or give away or cause or  
50 permit or procure to be sold, delivered or given away any cannabis or  
51 cannabis product to any person, actually or apparently, under the age of  
52 twenty-one years or any visibly intoxicated person.

53 (b) It shall be an affirmative defense that such person had produced a  
54 photographic identification card apparently issued by a governmental  
55 entity and that the cannabis had been sold, delivered or given to such  
56 person in reasonable reliance upon such identification. In evaluating

1 the applicability of such affirmative defense, the board shall take into  
2 consideration any written policy or training adopted and implemented by  
3 the licensee to prevent sales to minors.

4 3. No licensee or permittee shall knowingly sell, deliver or give away  
5 or cause or permit or procure to be sold, delivered or given away to a  
6 lawful cannabis consumer any amount of cannabis which they know would  
7 cause the lawful cannabis consumer to be in violation of this chapter or  
8 possession limits established by article two hundred twenty-two of the  
9 penal law.

10 4. The board, on the recommendation of the office shall have the  
11 authority to limit, by canopy, plant count, square footage or other  
12 means, the amount of cannabis allowed to be grown, processed, distrib-  
13 uted or sold by a licensee.

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

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

29 2. Each applicant must submit to the office documentation of the  
30 racial, ethnic, and gender diversity of the applicant's employees and  
31 owners prior to a license being renewed. In addition, the board shall  
32 consult with the chief equity officer and executive director to create a  
33 social responsibility framework agreement that fosters racial, ethnic,  
34 and gender diversity in their workplace and make the adherence to such  
35 agreement a conditional requirement of license renewal.

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

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

43 5. Each applicant must maintain a labor peace agreement with a bona-  
44 fide labor organization that is actively engaged in representing or  
45 attempting to represent the applicant's employees and the maintenance of  
46 such a labor peace agreement shall be an ongoing material condition of  
47 licensure.

48 6. Each applicant must provide evidence of the execution of their plan  
49 for benefitting communities and people disproportionately impacted by  
50 cannabis law enforcement required for initial licensing pursuant to  
51 section sixty-four of this article.

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

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

- 54 (a) the name and address of the licensee;  
55 (b) the activities permitted by the license;

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

3 (d) a unique license number issued by the board to the licensee; and

4 (e) such other information as the board shall deem necessary to assure  
5 compliance with this chapter.

6 2. Upon application of a licensee to the board, a license may be  
7 amended to allow the licensee to relocate within the state, to add or  
8 delete licensed activities or facilities, or to amend the ownership or  
9 organizational structure of the entity that is the licensee. The board  
10 shall establish a fee for such amendments.

11 3. A license shall become void by a change in ownership, substantial  
12 corporate change or location without prior written approval of the  
13 board. The board may promulgate regulations allowing for certain types  
14 of changes in ownership without the need for prior written approval.

15 4. For purposes of this section, "substantial corporate change" shall  
16 mean:

17 (a) for a corporation, a change of fifty-one percent or more of the  
18 officers and/or directors, or a transfer of fifty-one percent or more of  
19 stock of such corporation, or an existing stockholder obtaining fifty-  
20 one percent or more of the stock of such corporation; or

21 (b) for a limited liability company, a change of fifty-one percent or  
22 more of the managing members of the company, or a transfer of fifty-one  
23 percent or more of ownership interest in said company, or an existing  
24 member obtaining a cumulative of fifty-one percent or more of the owner-  
25 ship interest in said company; or

26 (c) for a partnership, a change of fifty-one percent or more of the  
27 managing partners of the company, or a transfer of fifty-one percent or  
28 more of ownership interest in said company, or an existing member  
29 obtaining a cumulative of fifty-one percent or more of the ownership  
30 interest in said company.

31 § 68. Adult-use cultivator license. 1. An adult-use cultivator's  
32 license shall authorize the acquisition, possession, distribution,  
33 cultivation and sale of cannabis from the licensed premises of the  
34 adult-use cultivator by such licensee to duly licensed processors in  
35 this state. The board may establish regulations allowing licensed  
36 adult-use cultivators to perform certain types of minimal processing  
37 without the need for an adult-use processor license.

38 2. For purposes of this section, cultivation shall include, but not be  
39 limited to, the agricultural production practices of planting, growing,  
40 cloning, harvesting, drying, curing, grading and trimming of cannabis.

41 3. A person holding an adult-use cultivator's license may apply for,  
42 and obtain, one processor's license and one distributor's license solely  
43 for the distribution of their own products.

44 4. A person holding an adult-use cultivator's license may not also  
45 hold a retail dispensary license pursuant to this article and no adult-  
46 use cannabis cultivator shall have a direct or indirect interest,  
47 including by stock ownership, interlocking directors, mortgage or lien,  
48 personal or real property, management agreement, share parent companies  
49 or affiliated organizations, or any other means, in any premises  
50 licensed as an adult-use cannabis retail dispensary or in any business  
51 licensed as an adult-use cannabis retail dispensary or in any registered  
52 organization registered pursuant to article three of this chapter.

53 5. No person may have a direct or indirect financial or controlling  
54 interest in more than one adult-use cultivator license issued pursuant  
55 to this chapter, provided that one adult-use cultivator license may



1 authorize adult-use cultivation in more than one location pursuant to  
2 criteria established by the board in regulation.

3 § 68-a. Registered organization adult-use cultivator processor  
4 distributor retail dispensary license. 1. A registered organization  
5 cultivator processor distributor retail dispensary license shall have  
6 the same authorization and conditions as adult-use cultivator, adult-use  
7 processor, adult-use distributor and adult-use retail dispensary  
8 licenses issued pursuant to this article provided, however that the  
9 location of its adult-use dispensaries shall be limited to only three of  
10 the organization's medical dispensaries' premises and facilities author-  
11 ized pursuant to article three of this chapter, and that it may only  
12 distribute its own products. Provided further that such registered  
13 organization shall maintain its medical cannabis license and continue  
14 offering medical cannabis to a degree established by regulation of the  
15 board. Such license does not qualify such organization for any other  
16 adult-use license.

17 2. A person holding a registered organization adult-use cultivator  
18 processor distributor retail dispensary license may not also hold another  
19 retail dispensary license pursuant to this article and no registered  
20 organization adult-use cultivator processor distributor retail dispensary  
21 shall have a direct or indirect interest, including by stock owner-  
22 ship, interlocking directors, mortgage or lien, personal or real prop-  
23 erty, management agreement, share parent companies or affiliated  
24 organizations, or any other means, in any premises licensed as an  
25 adult-use cannabis retail dispensary or in any business licensed as an  
26 adult-use cannabis retail dispensary.

27 § 68-b. Registered organization adult-use cultivator, processor and  
28 distributor license. A registered organization cultivator, processor and  
29 distributor license shall have the same authorization and conditions as  
30 an adult-use cultivator, processor, and distributor license, provided,  
31 however, that such license does not qualify such organization for any  
32 other adult-use license and may only authorize the distribution of the  
33 licensee's own products.

34 § 69. Adult-use processor license. 1. A processor's license shall  
35 authorize the acquisition, possession, processing and sale of cannabis  
36 from the licensed premises of the adult-use cultivator by such licensee  
37 to duly licensed processors or distributors. A person holding an  
38 adult-use processor's license may apply for, and obtain, one distribu-  
39 tor's license solely for the distribution of their own products.

40 2. For purposes of this section, processing shall include, but not be  
41 limited to, blending, extracting, infusing, packaging, labeling, brand-  
42 ing and otherwise making or preparing cannabis products. Processing  
43 shall not include the cultivation of cannabis.

44 3. No processor shall be engaged in any other business on the premises  
45 to be licensed; except that a person issued an adult-use cannabis culti-  
46 vator, processor, and/or distributor license may hold and operate all  
47 issued licenses on the same premises.

48 4. No cannabis processor licensee may hold more than one cannabis  
49 processor license provided a single license may authorize processor  
50 activities at multiple locations, as set out in regulations by the  
51 board.

52 5. No adult-use cannabis processor shall have a direct or indirect  
53 interest, including by stock ownership, interlocking directors, mortgage  
54 or lien, personal or real property, management agreement, share parent  
55 companies or affiliated organizations or any other means, in any prem-  
56 ises licensed as an adult-use cannabis retail dispensary or in any busi-

1 ness licensed as an adult-use cannabis retail dispensary or in any  
2 registered organization registered pursuant to article three of this  
3 chapter.

4 6. Adult-use processor licensees are subject to minimum operating  
5 requirements as determined by the board in regulation.

6 § 70. Adult-use cooperative license. 1. A cooperative license shall  
7 authorize the acquisition, possession, cultivation, processing, distrib-  
8 ution and sale from the licensed premises of the adult-use cooperative  
9 by such licensee to duly licensed distributors, on-site consumption  
10 sites, registered organization and/or retail dispensaries; but not  
11 directly to cannabis consumers.

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

13 (a) 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 and authorized  
16 by the board;

17 (b) subordinate capital, both as regards control over the cooperative  
18 undertaking, and as regards the ownership of the pecuniary benefits  
19 arising therefrom;

20 (c) be democratically controlled by the members themselves on the  
21 basis of one vote per member;

22 (d) vest in and allocate with priority to and among the members of all  
23 increases arising from their cooperative endeavor in proportion to the  
24 members' active participation in the cooperative endeavor; and

25 (e) 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. A cooperative member shall be a natural person and shall not be a  
29 member of more than one adult-use cooperative licensed pursuant to this  
30 section.

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

34 5. No adult-use cannabis cooperative shall have a direct or indirect  
35 interest, including by stock ownership, interlocking directors, mortgage  
36 or lien, personal or real property, or any other means, in any premises  
37 licensed as an adult-use cannabis retail dispensary or in any business  
38 licensed as an adult-use cannabis retail dispensary pursuant to this  
39 chapter.

40 6. The board shall promulgate regulations governing cooperative  
41 licenses, including, but not limited to, the establishment of canopy  
42 limits on the size and scope of cooperative licensees, and other meas-  
43 ures designed to incentivize the use and licensure of cooperatives.

44 § 71. Adult-use distributor license. 1. A distributor's license shall  
45 authorize the acquisition, possession, distribution and sale of cannabis  
46 from the licensed premises of a licensed adult-use cultivator, process-  
47 or, adult-use cooperative, microbusiness, or registered organization  
48 authorized pursuant to this chapter to sell adult-use cannabis, to duly  
49 licensed retail dispensaries and on-site consumption sites.

50 2. No distributor shall have a direct or indirect economic interest in  
51 any microbusiness, adult-use retail dispensary, adult-use on-site  
52 consumption licensee or in any registered organization registered pursu-  
53 ant to article three of this chapter. This restriction shall not prohib-  
54 it a registered organization authorized pursuant to section thirty-nine  
55 of this chapter, from being granted licensure by the board to distribute

1 adult-use cannabis products cultivated and processed by the registered  
2 organization to licensed adult-use retail dispensaries.

3 3. Any distributor with a direct or indirect interest in a licensed  
4 cultivator or processor, shall only distribute cannabis or cannabis  
5 products cultivated and/or processed by such licensee.

6 4. Nothing in subdivision two of this section shall prevent a distrib-  
7 utor from charging an appropriate fee, authorized by the board, for the  
8 distribution of cannabis, including based on the volume of cannabis  
9 distributed.

10 5. Adult-use distributor licensees are subject to minimum operating  
11 requirements as determined by the board in regulation.

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

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

19 3. No person holding a retail dispensary license may also hold an  
20 adult-use cultivation, processor, microbusiness, cooperative or distrib-  
21 utor license pursuant to this article or be registered as a registered  
22 organization pursuant to article three of this chapter, except for such  
23 organizations licensed pursuant to sections sixty-eight-a and sixty-  
24 eight-b of this article.

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

31 5. With the exception of delivery or microbusiness licensees, no prem-  
32 ises shall be licensed to sell cannabis products, unless said premises  
33 shall be located in a store, the principal entrance to which shall be  
34 from the street level and located on a public thoroughfare in premises  
35 which may be occupied, operated or conducted for business, trade or  
36 industry.

37 6. No cannabis retail licensee shall locate a storefront within five  
38 hundred feet of a school grounds as such term is defined in the educa-  
39 tion law or within two hundred feet of a house of worship.

40 § 73. Microbusiness license. 1. A microbusiness license shall author-  
41 ize the limited cultivation, processing, distribution, delivery, and  
42 dispensing of their own adult-use cannabis and cannabis products.

43 2. A microbusiness licensee may not hold any direct or indirect inter-  
44 est in any other license in this chapter and may only distribute its own  
45 cannabis and cannabis products to dispensaries.

46 3. The size, scope and eligibility criteria of a microbusiness shall  
47 be determined in regulation by the board in consultation with the execu-  
48 tive director and the chief equity officer. The granting of such  
49 licenses shall promote social and economic equity applicants as provided  
50 for in this chapter.

51 § 74. Delivery license. A delivery license shall authorize the deliv-  
52 ery of cannabis and cannabis products by licensees independent of another  
53 adult-use cannabis license, provided that each delivery licensee may  
54 have a total of no more than twenty-five individuals, or the equivalent  
55 thereof, providing full-time paid delivery services to cannabis consum-  
56 ers per week under one license. For the purposes of this section the

1 state cannabis advisory board shall provide recommendations to the board  
2 for the application process, license criteria, and scope of licensed  
3 activities for this class of license. No person may have a direct or  
4 indirect financial or controlling interest in more than one delivery  
5 license. The granting of such licenses shall promote social and economic  
6 equity applicants as provided for in this chapter.

7 § 75. Nursery license. 1. A nursery license shall authorize the  
8 production, sale and distribution of clones, immature plants, seeds, and  
9 other agricultural products used specifically for the planting, propa-  
10 gation, and cultivation of cannabis by licensed adult-use cultivators,  
11 cooperatives, microbusinesses or registered organizations. For the  
12 purposes of this section, the office shall provide recommendations to  
13 the board for the application process, license criteria and scope of  
14 licensed activities for this class of license. The granting of such  
15 licenses shall promote social and economic equity applicants as provided  
16 for in this chapter.

17 2. A person or entity holding an adult-use cultivator's license may  
18 apply for, and obtain, one nursery license to sell directly to other  
19 cultivators, cooperatives, microbusinesses, or registered organizations.

20 § 76. Notification to municipalities of adult-use retail dispensary or  
21 on-site consumption license. 1. Not less than thirty days nor more than  
22 two hundred seventy days before filing an application for licensure as  
23 an adult-use retail dispensary or registered organization adult-use  
24 cultivator processor distributor retail dispensary or an on-site  
25 consumption licensee, an applicant shall notify the municipality in  
26 which the premises is located of such applicant's intent to file such an  
27 application.

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

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

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

37 3. Such notification shall be made in such form as shall be prescribed  
38 by the rules of the board.

39 4. When a city, town, or village, and in New York city a community  
40 board, expresses an opinion for or against the granting of such regis-  
41 tration, license or permit application, any such opinion shall be deemed  
42 part of the record upon which the office makes its recommendation to the  
43 board to grant or deny the application and the board shall respond in  
44 writing to such city, town, village or community board with an explana-  
45 tion of how such opinion was considered in the granting or denial of an  
46 application.

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

51 6. The board shall require such notification to be on a standardized  
52 form that can be obtained on the internet or from the board and such  
53 notification to include:

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

56 (b) the full name of the applicant;

- 1 (c) the street address of the establishment, including the floor  
2 location or room number, if applicable;
- 3 (d) the mailing address of the establishment, if different than the  
4 street address;
- 5 (e) the name, address and telephone number of the attorney or repre-  
6 sentative of the applicant, if any;
- 7 (f) a statement indicating whether the application is for:
- 8 (i) a new establishment;
- 9 (ii) a transfer of an existing licensed business;
- 10 (iii) a renewal of an existing license; or
- 11 (iv) an alteration of an existing licensed premises;
- 12 (g) if the establishment is a transfer or previously licensed prem-  
13 ises, the name of the old establishment and such establishment's regis-  
14 tration or license number;
- 15 (h) in the case of a renewal or alteration application, the registra-  
16 tion or license number of the applicant; and
- 17 (i) the type of license.

18 § 77. Adult-use on-site consumption license; provisions governing  
19 on-site consumption licenses. 1. No applicant shall be granted an  
20 adult-use on-site consumption license for any premises, unless the  
21 applicant shall be the owner thereof, or shall be in possession of said  
22 premises under a lease, in writing, for a term not less than the license  
23 period except, however, that such license may thereafter be renewed  
24 without the requirement of a lease as provided in this section. This  
25 subdivision shall not apply to premises leased from government agencies;  
26 provided, however, that the appropriate administrator of such government  
27 agency provides some form of written documentation regarding the terms  
28 of occupancy under which the applicant is leasing said premises from the  
29 government agency for presentation to the office at the time of the  
30 license application. Such documentation shall include the terms of occu-  
31 pancy between the applicant and the government agency, including, but  
32 not limited to, any short-term leasing agreements or written occupancy  
33 agreements.

34 2. No person may have a direct or indirect financial or controlling  
35 interest in more than three adult-use on-site consumption licenses  
36 issued pursuant to this chapter.

37 3. No person holding an adult-use on-site consumption license may also  
38 hold an adult-use retail dispensary, cultivation, processor, microbusi-  
39 ness, cooperative or distributor license pursuant to this article or be  
40 registered as a registered organization pursuant to article three of  
41 this chapter.

42 4. No applicant shall be granted an adult-use on-site consumption  
43 license for any premises within five hundred feet of school grounds as  
44 such term is defined in the education law or two hundred feet from a  
45 house of worship.

46 5. The board may consider any or all of the following in determining  
47 whether public convenience and advantage and the public interest will be  
48 promoted by the granting of an adult-use on-site consumption license at  
49 a particular location:

- 50 (a) that it is a privilege, and not a right, to cultivate, process,  
51 distribute, and sell cannabis;
- 52 (b) the number, classes, and character of other licenses in proximity  
53 to the location and in the particular municipality or subdivision there-  
54 of;
- 55 (c) evidence that all necessary licenses and permits have been  
56 obtained from the state and all other governing bodies;

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

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

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

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

10 6. If the board shall disapprove an application for an on-site  
11 consumption license, it shall state and file in its offices the reasons  
12 therefor and shall notify the applicant thereof. Such applicant may  
13 thereupon apply to the board for a review of such action in a manner to  
14 be prescribed by the rules of the board.

15 7. No adult-use cannabis on-site consumption licensee shall keep upon  
16 the licensed premises any adult-use cannabis products except those  
17 purchased from a licensed adult-use distributor; registered organiza-  
18 tion adult-use cultivator processor distributor retail dispenser;  
19 registered organization adult-use cultivator, processor and distribu-  
20 tor; cooperative, or microbusiness authorized to sell adult-use canna-  
21 bis, and only in containers approved by the board. Such containers shall  
22 have affixed thereto such labels as may be required by the rules of the  
23 board. No adult-use on-site consumption licensee shall reuse, refill,  
24 tamper with, adulterate, dilute or fortify the contents of any container  
25 of cannabis products as received from the manufacturer or distributor.

26 8. No adult-use on-site consumption licensee shall sell, deliver or  
27 give away, or cause or permit or procure to be sold, delivered or given  
28 away any cannabis for consumption on the premises where sold in a  
29 container or package containing a quantity or number of servings more  
30 than authorized by the board.

31 9. No adult-use on-site consumption licensee shall suffer, permit or  
32 promote activities or events on its premises wherein any person shall  
33 use such premises for activities including, but not limited to, gambl-  
34 ing, exposing or simulating, contests, or fireworks that are prohibited  
35 by subdivision six, six-a, six-b, six-c or seven of section one hundred  
36 six of the alcoholic beverage control law or any other similar activ-  
37 ities the board deems to be prohibited.

38 10. No premises licensed to sell adult-use cannabis for on-site  
39 consumption under this chapter shall be permitted to have any opening or  
40 means of entrance or passageway for persons or things between the  
41 licensed premises and any other room or place in the building containing  
42 the licensed premises, or any adjoining or abutting premises, unless  
43 ingress and egress is restricted by an employee, agent of the licensee,  
44 or other method approved by the board of controlling access to the  
45 facility.

46 11. Each adult-use on-site consumption licensee shall keep and main-  
47 tain upon the licensed premises, adequate records of all transactions  
48 involving the business transacted by such licensee which shall show the  
49 amount of cannabis products, in an applicable metric measurement,  
50 purchased by such licensee together with the names, license numbers and  
51 places of business of the persons from whom the same were purchased, the  
52 amount involved in such purchases, as well as the sales of cannabis  
53 products made by such licensee. The board is hereby authorized to  
54 promulgate rules and regulations permitting an on-site licensee operat-  
55 ing two or more premises separately licensed to sell cannabis products  
56 for on-site consumption to inaugurate or retain in this state methods or

1 practices of centralized accounting, bookkeeping, control records,  
2 reporting, billing, invoicing or payment respecting purchases, sales or  
3 deliveries of cannabis products, or methods and practices of centralized  
4 receipt or storage of cannabis products within this state without segre-  
5 gation or earmarking for any such separately licensed premises, wherever  
6 such methods and practices assure the availability, at such licensee's  
7 central or main office in this state, of data reasonably needed for the  
8 enforcement of this chapter. Such records shall be available for  
9 inspection by any authorized representative of the board.

10 12. All licensed adult-use on-site consumption premises shall be  
11 subject to inspection by any peace officer, acting pursuant to his or  
12 her special duties, or police officer and by the duly authorized repre-  
13 sentatives of the board, during the hours when the said premises are  
14 open for the transaction of business.

15 13. An adult-use on-site consumption licensee shall not provide canna-  
16 bis products to any person under the age of twenty-one. No person under  
17 the age of twenty-one shall be permitted on the premises of a cannabis  
18 on-site consumption facility.

19 14. The provisions of article thirteen-E of the public health law  
20 restricting the smoking or vaping of cannabis shall not apply to adult-  
21 use on-site consumption premises.

22 § 78. Record keeping and tracking. 1. The board shall, by regulation,  
23 require each licensee pursuant to this article to adopt and maintain  
24 security, tracking, record keeping, record retention and surveillance  
25 systems, relating to all cannabis at every stage of acquiring,  
26 possession, manufacture, sale, delivery, transporting, testing or  
27 distributing by the licensee, subject to regulations of the board.

28 2. Every licensee shall keep and maintain upon the licensed premises,  
29 adequate books and records of all transactions involving the licensee  
30 and sale of its products, which shall include, but is not limited to,  
31 all information required by any rules promulgated by the board. Such  
32 regulations may require the utilization of an approved seed-to-sale  
33 tracking system compiling a licensee's cannabis inventory and trans-  
34 action data.

35 § 79. Inspections and ongoing requirements. All licensed or permitted  
36 premises, regardless of the type of premises, and all records including  
37 but not limited to financial statements and corporate documents, shall  
38 be subject to inspection by the office, by the duly authorized represen-  
39 tatives of the board, by any peace officer acting pursuant to his or her  
40 special duties, or by a police officer. The board shall make reasonable  
41 accommodations so that ordinary business is not interrupted and safety  
42 and security procedures are not compromised by the inspection. A person  
43 who holds a license or permit must make himself or herself, or an agent  
44 thereof, available and present for any inspection required by the board.  
45 Such inspection may include, but is not limited to, ensuring compliance  
46 by the licensee or permittee with all of the requirements of this arti-  
47 cle, the regulations promulgated pursuant thereto, and other applicable  
48 state and local building codes, fire, health, safety, and other applica-  
49 ble regulations.

50 § 80. Adult-use cultivators, processors or distributors not to be  
51 interested in retail dispensaries. 1. It shall be unlawful for any  
52 person authorized to cultivate, process, or distribute under this arti-  
53 cle to:

54 (a) be interested directly or indirectly in any premises where any  
55 cannabis product is sold at retail, including for on-site consumption;  
56 or in any business devoted wholly or partially to the sale or delivery

1 of any cannabis product at retail, including for on-site consumption, by  
2 stock ownership, interlocking directors, mortgage or lien or any  
3 personal or real property, or by any other means;

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

6 (c) make any gift or render any service of any kind whatsoever,  
7 directly or indirectly, to any person licensed under this chapter which  
8 in the judgment of the board may influence such licensee to purchase the  
9 product of such cultivator or processor or distributor; or

10 (d) enter into any contract or agreement with any retail, on-site  
11 consumption or delivery licensee whereby such licensee agrees to confine  
12 his or her sales to cannabis products manufactured or sold by one or  
13 more such cultivator or processors or distributors. Any such contract or  
14 agreement shall be void and subject the licenses of all parties  
15 concerned to revocation for cause and any applicable administrative  
16 enforcement and penalties.

17 2. The provisions of this section shall not prohibit a registered  
18 organization authorized pursuant to section thirty-nine or sixty-eight-a  
19 of this chapter, or microbusiness authorized pursuant to section seven-  
20 ty-three of this chapter, from cultivating, processing, or selling  
21 adult-use cannabis under this article, at facilities wholly owned and  
22 operated by such registered organization or microbusiness, subject to  
23 any conditions, limitations or restrictions established by this chapter.

24 3. The board shall develop rules and regulations in regard to this  
25 section.

26 § 81. Packaging, labeling, and administration of adult-use cannabis  
27 products. 1. The board is hereby authorized to promulgate rules and  
28 regulations governing the advertising, branding, marketing, packaging,  
29 labeling and unconventional methods of administration or ingestion, of  
30 cannabis products, sold or possessed for sale in New York state, includ-  
31 ing rules pertaining to the accuracy of information and rules restrict-  
32 ing marketing and advertising to youth.

33 2. Such regulations shall include, but not be limited to, requiring  
34 that:

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

37 (b) prior to delivery or sale at a retailer, cannabis and cannabis  
38 products shall be labeled according to regulations and placed in a  
39 resealable, child-resistant package; and

40 (c) packages, labels, shapes and products shall not be made to be  
41 attractive to or target persons under the age of twenty-one.

42 3. Such regulations shall include requiring labels warning consumers  
43 of any potential impact on human health resulting from the consumption  
44 of cannabis products that shall be affixed to those products when sold,  
45 if such labels are deemed warranted by the board and may establish  
46 standardized and/or uniform packaging and labeling requirements for  
47 adult-use products.

48 4. Such rules and regulations shall establish methods and procedures  
49 for determining serving sizes for cannabis products, active cannabis  
50 concentration per serving size, and number of servings per container or  
51 package, and the methods of separating or clearly delineating servings  
52 within a container or package. Such regulations may also require a  
53 nutritional or supplement fact panel that incorporates data regarding  
54 serving sizes and potency thereof.

55 5. Such rules and regulations shall establish approved product types  
56 and forms and establish an application and review process to determine



1 the suitability of new product types and forms, taking into consider-  
2 ation the consumer and public health and safety implications of differ-  
3 ent product varieties, manufacturing processes, product types and forms,  
4 the means and methods of administration associated with specific prod-  
5 uct types, and any other criteria identified by the board for consider-  
6 ation to protect public health and safety.

7 6. Such regulations shall also require product labels to accurately  
8 display the total THC of each product.

9 7. The packaging, sale, marketing, branding, advertising, labeling or  
10 possession by any licensee of any cannabis product not labeled or  
11 offered in conformity with rules and regulations promulgated in accord-  
12 ance with this section shall be grounds for the imposition of a fine,  
13 and/or the suspension, revocation or cancellation of a license in  
14 accordance with the provisions of this chapter.

15 § 82. Laboratory testing. 1. Every processor of adult-use cannabis  
16 shall contract with an independent laboratory permitted pursuant to  
17 section one hundred twenty-nine of this chapter, to test the cannabis  
18 products it produces pursuant to rules and regulations prescribed by the  
19 office. The board may assign an approved testing laboratory, which the  
20 processor of adult-use cannabis must use, and may establish consortia  
21 with neighboring states, to inform best practices, and share laboratory  
22 data.

23 2. Adult-use cannabis processors, microbusinesses, cooperatives and  
24 registered organizations shall make laboratory test reports available to  
25 licensed distributors, retail dispensaries, and on-site consumption  
26 sites for all cannabis products manufactured by the processor or licen-  
27 see.

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 subject to  
33 regulation; however, such testing shall not be certified by the board  
34 and does not exempt the licensee from the requirements of quality assur-  
35 ance testing at a testing laboratory pursuant to this section.

36 5. An owner of a cannabis laboratory testing permit shall not hold a  
37 license, or interest in a license, in any other category within this  
38 article and shall not own or have ownership interest in a registered  
39 organization registered pursuant to article three of this chapter or a  
40 cannabinoid hemp processor license pursuant to article five of this  
41 chapter.

42 6. The board shall have the authority to require any licensee under  
43 this article to submit cannabis or cannabis products to one or more  
44 independent laboratories for testing and the board may promulgate regu-  
45 lations related to all aspects of third-party testing and quality assur-  
46 ance including but not limited to:

- 47 (a) minimum testing and sampling requirements;
- 48 (b) testing and sampling methodologies;
- 49 (c) testing reporting requirements;
- 50 (d) retesting; and
- 51 (e) product quarantine, hold, recall, and remediation.

52 § 83. Provisions governing the cultivation and processing of adult-use  
53 cannabis. 1. Cultivation and processing of cannabis shall comply with  
54 regulations promulgated by the board governing minimum requirements for  
55 adult-use cultivators, nurseries, processors, microbusinesses, cooper-

1 atives, registered organizations, and registered organization cultiva-  
2 tors.

3 2. No cultivator or processor of adult-use cannabis shall sell, or  
4 agree to sell or deliver in the state any cannabis products, as the case  
5 may be, except in originally sealed containers containing quantities in  
6 accordance with size standards pursuant to rules adopted by the board.  
7 Such containers shall have affixed thereto such labels or other means of  
8 tracking and identification as may be required by the rules of the  
9 board.

10 3. No cultivator or processor of adult-use cannabis shall furnish or  
11 cause to be furnished to any licensee, any exterior or interior sign,  
12 printed, painted, electric or otherwise, except as authorized by the  
13 board. The board may make such rules as it deems necessary to carry out  
14 the purpose and intent of this subdivision.

15 4. Cultivators of adult-use cannabis consistent with protecting public  
16 health and safety, shall comply with plant cultivation regulations,  
17 standards, and guidelines consistent with the provisions applicable to  
18 hemp, cannabinoid hemp, and hemp extract and issued by the board, in  
19 consultation with the department of environmental conservation and the  
20 department of agriculture and markets. Such regulations, standards, and  
21 guidelines shall be guided by sustainable farming principles and prac-  
22 tices such as organic, regenerative, and integrated pest management  
23 models to the extent possible, and shall restrict whenever possible, the  
24 use of pesticides to those that are registered by the department of  
25 environmental conservation or that specifically meet the United States  
26 environmental protection agency registration exemption criteria for  
27 minimum risk, used in compliance with rules, regulations, standards and  
28 guidelines issued by the department of environmental conservation for  
29 pesticides.

30 5. No cultivator or processor of adult-use cannabis shall transport  
31 any cannabis products, except in vehicles owned and operated by such  
32 cultivator or processor, or hired by such cultivator or processor and  
33 operated by a trucking or transportation company registered with the  
34 office, and shall only make deliveries at the licensed premises of the  
35 purchaser.

36 6. No cultivator or processor of adult-use cannabis, including an  
37 adult-use cannabis cooperative, microbusiness, or registered organiza-  
38 tion may offer any incentive, payment or other benefit to a licensed  
39 cannabis distributor or retail dispensary in return for carrying the  
40 cultivator, processor, cooperative, microbusiness or registered organ-  
41 ization products, or preferential shelf placement.

42 7. All cannabis products shall be processed in accordance with good  
43 manufacturing practices for the product category, pursuant to either  
44 Part 111 or Part 117 of Title 21 of the Code of Federal Regulations, as  
45 may be modified by the board in regulation.

46 8. No processor of adult-use cannabis shall produce any product which,  
47 in the discretion of the board, is designed to appeal to anyone under  
48 the age of twenty-one years.

49 9. The use or integration of alcoholic beverages or nicotine in canna-  
50 bis products is strictly prohibited.

51 10. The board shall promulgate regulations governing the minimum  
52 requirements for the secure transport of adult-use cannabis.

53 § 84. Provisions governing the distribution of adult-use cannabis. 1.  
54 No distributor shall sell, or agree to sell or deliver any cannabis  
55 products, as the case may be, in any container, except in a sealed pack-

1 age. Such containers shall have affixed thereto such labels as may be  
2 required by the rules of the board.

3 2. No distributor shall deliver any cannabis products, except in vehi-  
4 cles owned and operated by such distributor, or hired and operated by  
5 such distributor from a trucking or transportation company registered  
6 with the board, and shall only make deliveries at the licensed premises  
7 of the purchaser.

8 3. Each distributor shall keep and maintain upon the licensed prem-  
9 ises, adequate books and records of all transactions involving the busi-  
10 ness transacted by such distributor, which shall show the amount of  
11 cannabis products purchased by such distributor and the total THC  
12 content of purchased cannabis products as reflected on the product  
13 labels together with the names, license numbers and places of business  
14 of the persons from whom the same was purchased and the amount involved  
15 in such purchases, as well as the amount of cannabis products sold by  
16 such distributor together and the total THC content of cannabis products  
17 sold as reflected on the final product labels, with the names,  
18 addresses, and license numbers of such purchasers and any other informa-  
19 tion required in regulation. Each sale shall be recorded separately on  
20 a numbered invoice, which shall have printed thereon the number, the  
21 name of the licensee, the address of the licensed premises, and the  
22 current license number. Such distributor shall deliver to the purchaser  
23 a true duplicate invoice stating the name and address of the purchaser,  
24 the quantity of cannabis products, the total THC content of cannabis  
25 products sold as reflected on the product labels, description by brands  
26 and the price of such cannabis products, and a true, accurate and  
27 complete statement of the terms and conditions on which such sale is  
28 made. Such books, records and invoices shall be kept for a period of  
29 five years and shall be available for inspection by any authorized  
30 representative of the board.

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

34 5. No distributor shall provide any discount, rebate or customer  
35 loyalty program to any licensed retailer, except as otherwise authorized  
36 by the board.

37 6. The board is authorized to promulgate regulations establishing a  
38 maximum margin for which a distributor may mark up a cannabis product  
39 for sale to a retail dispensary. Any adult-use cannabis product sold by  
40 a distributor for more than the maximum markup allowed in regulation,  
41 shall be unlawful.

42 7. Each distributor shall keep and maintain upon the licensed prem-  
43 ises, adequate books and records to demonstrate the distributor's actual  
44 cost of doing business, using accounting standards and methods regularly  
45 employed in the determination of costs for the purpose of federal income  
46 tax reporting, for the total operation of the licensee. Such books,  
47 records and invoices shall be kept for a period of five years and shall  
48 be available for inspection by any authorized representative of the  
49 office for use in determining the maximum markup allowed in regulation  
50 pursuant to subdivision six of this section.

51 § 85. Provisions governing adult-use cannabis retail dispensaries. 1.  
52 No cannabis retail licensee shall sell, deliver, or give away or cause  
53 or permit or procure to be sold, delivered or given away any cannabis to  
54 any person, actually or apparently, under the age of twenty-one years  
55 or, any visibly intoxicated person.

1 2. Valid proof of age is required for each transaction. No licensee,  
2 or agent or employee of such licensee shall accept as written evidence  
3 of age by any such person for the purchase of any cannabis or cannabis  
4 product, any documentation other than: (a) a valid driver's license or  
5 non-driver identification card issued by the commissioner of motor vehi-  
6 cles, the federal government, any United States territory, commonwealth  
7 or possession, the District of Columbia, a state government within the  
8 United States or a provincial government of the dominion of Canada, or  
9 (b) a valid passport issued by the United States government or any other  
10 country, or (c) an identification card issued by the armed forces of the  
11 United States. Upon the presentation of such driver's license or non-  
12 driver identification card issued by a governmental entity, such licen-  
13 see or agent or employee thereof may perform a transaction scan as a  
14 precondition to the sale of any cannabis or cannabis product. Nothing in  
15 this section shall prohibit a licensee or agent or employee from  
16 performing such a transaction scan on any of the other documents listed  
17 in this subdivision if such documents include a bar code or magnetic  
18 strip that may be scanned by a device capable of deciphering any elec-  
19 tronically readable format. In instances where the information deci-  
20 phered by the transaction scan fails to match the information printed on  
21 the driver's license or non-driver identification card presented by the  
22 card holder, or if the transaction scan indicates that the information  
23 is false or fraudulent, the attempted purchase of the cannabis or canna-  
24 bis product shall be denied.

25 3. No cannabis retail licensee shall sell alcoholic beverages, nor  
26 have or possess a license or permit to sell alcoholic beverages, on the  
27 same premises where cannabis products are sold.

28 4. No sign of any kind printed, painted or electric, advertising any  
29 brand shall be permitted on the exterior or interior of such premises,  
30 except by permission of the board.

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

37 6. All premises licensed under this section shall be subject to  
38 inspection by any peace officer described in subdivision four of section  
39 2.10 of the criminal procedure law acting pursuant to his or her special  
40 duties, or police officer or any duly authorized representative of the  
41 board. All licensees shall be subject to reasonable inspection by the  
42 office and a person who holds a license must make himself or herself, or  
43 an agent thereof, available and present for any inspection required by  
44 the office. The office shall make reasonable accommodations so that  
45 ordinary business is not interrupted, and safety and security procedures  
46 are not compromised by the inspection.

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

1 the interest comprehended by this subdivision, shall be upon the person  
2 who claims to be entitled to the protection and exemption afforded here-  
3 by.

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

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

12 10. No person licensed to sell cannabis products at retail, shall  
13 allow or permit any gambling, or offer any gambling on the licensed  
14 premises, or allow or permit illicit drug activity on the licensed prem-  
15 ises.

16 11. All adult-use dispensing facilities shall make educational mate-  
17 rials and resources available to cannabis consumers at the point of  
18 sale, as prescribed by the board.

19 12. The board is authorized, to promulgate regulations governing  
20 licensed adult-use dispensing facilities, including but not limited to,  
21 the hours of operation, size and location of the licensed facility,  
22 types and concentration of product servings offered and establishing a  
23 minimum and maximum margin for retail dispensary markups of cannabis  
24 product or products before selling to a cannabis consumer. It shall be  
25 unlawful for any retail dispensary to sell any adult-use cannabis prod-  
26 uct for less than the minimum markup allowed in regulation.

27 § 86. Adult-use cannabis advertising and marketing. 1. The board  
28 shall promulgate rules and regulations governing the form and content of  
29 advertising and marketing of licensed cannabis and any cannabis products  
30 or services.

31 2. The board shall promulgate regulations for advertising and market-  
32 ing content including but not limited to explicit rules prohibiting  
33 advertising that:

34 (a) is false, deceptive, or misleading;

35 (b) promotes overconsumption;

36 (c) depicts consumption;

37 (d) is designed in any way to appeal to children or other minors;

38 (e) is within or is readily observed within five hundred feet of the  
39 perimeter of a school grounds, playground, child day care providers,  
40 public park, or library;

41 (f) is in public transit vehicles and stations;

42 (g) is in the form of an unsolicited internet pop-up;

43 (h) is on publicly owned or operated property;

44 (i) makes medical claims or promotes adult-use cannabis for a medical  
45 or wellness purpose;

46 (j) promotes or implements discounts, coupons, or other means of sell-  
47 ing adult-use cannabis products below market value or whose discount  
48 would subvert local and state tax collections;

49 (k) is in the form of a billboard; or

50 (l) fails to satisfy any other advertising or marketing rule or regu-  
51 lations promulgated by the board related to marketing or advertising,  
52 not inconsistent with this chapter.

53 3. The board shall promulgate explicit rules prohibiting all marketing  
54 strategies and implementation including, but not limited to, branding,  
55 packaging, labeling, location of cannabis retailers, and advertisements  
56 that are designed to:

1 (a) appeal to persons less than twenty-one years of age and/or popu-  
2 lations at-risk of increased adverse health consequences as determined  
3 by the board in regulation; or

4 (b) disseminate false or misleading information to customers.

5 4. The board shall promulgate regulations requiring that:

6 (a) all advertisements and marketing accurately and legibly identify  
7 the party or other business responsible for its content; and

8 (b) any broadcast, cable, radio, print and digital communications  
9 advertisements only be placed where the audience is reasonably expected  
10 to be twenty-one years of age or older, as determined by reliable,  
11 up-to-date audience composition data. The burden of proving this  
12 requirement lies with the party that has paid for or facilitated the  
13 advertisement.

14 5. The board may establish procedures to review and enforce advertis-  
15 ing and marketing requirements.

16 § 87. Social and economic equity, minority and women-owned businesses,  
17 distressed farmers and service-disabled veterans; incubator program. 1.  
18 The board, in consultation with the chief equity officer and executive  
19 director, and after receiving public input shall create and implement a  
20 social and economic equity plan and actively promote applicants from  
21 communities disproportionately impacted by cannabis prohibition, and  
22 promote racial, ethnic, and gender diversity when issuing licenses for  
23 adult-use cannabis related activities, including mentoring potential  
24 applicants, by prioritizing consideration of applications by applicants  
25 who are from communities disproportionately impacted by the enforcement  
26 of cannabis prohibition or who qualify as a minority or women-owned  
27 business, distressed farmers, or service-disabled veterans. Such quali-  
28 fications shall be determined by the board, with recommendations from  
29 the state cannabis advisory board, the chief equity officer and execu-  
30 tive director, by regulation.

31 2. The board's social and economic equity plan shall also promote  
32 diversity in commerce, ownership and employment, and opportunities for  
33 social and economic equity in the adult-use cannabis industry. A goal  
34 shall be established to award fifty percent of adult-use cannabis  
35 licenses to social and economic equity applicants and ensure inclusion  
36 of:

37 (a) individuals from communities disproportionately impacted by the  
38 enforcement of cannabis prohibition;

39 (b) minority-owned businesses;

40 (c) women-owned businesses;

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

43 (e) distressed farmers, as defined in subdivision five of this  
44 section; and

45 (f) service-disabled veterans.

46 3. The social and economic equity plan shall require the consideration  
47 of additional criteria in its licensing determinations. Under the social  
48 and economic equity plan, extra priority shall be given to applications  
49 that demonstrate that an applicant:

50 (a) is a member of a community disproportionately impacted by the  
51 enforcement of cannabis prohibition;

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

54 (c) was convicted of a marihuana-related offense prior to the effec-  
55 tive date of this chapter, or had a parent, guardian, child, spouse, or

1 dependent, or was a dependent of an individual who, prior to the effective date of this chapter, was convicted of a marihuana-related offense.

2  
3 4. The board in consultation with the cannabis advisory board and the chief equity officer, shall also create an incubator program to encourage social and economic equity applicants to apply and, if granted an adult-use cannabis license, permit or registration, the program shall provide direct support in the form of counseling services, education, small business coaching and financial planning, and compliance assistance.

4  
5  
6  
7  
8  
9  
10 5. For the purposes of this section, the following definitions shall apply:

11  
12 (a) "Minority-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

13  
14 (i) at least fifty-one percent owned by one or more minority group members;

15  
16 (ii) an enterprise in which such minority ownership is real, substantial and continuing;

17  
18 (iii) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

19  
20 (iv) an enterprise authorized to do business in this state and independently owned and operated; and

21  
22 (v) an enterprise that is a small business.

23  
24 (b) "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

25  
26 (i) black persons having origins in any of the black African racial groups;

27  
28 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

29  
30 (iii) Native American or Alaskan native persons having origins in any of the original peoples of North America; or

31  
32 (iv) Asian and Pacific Islander persons having origins in any of the far east countries, south east Asia, the Indian subcontinent or the Pacific islands.

33  
34 (c) "Women-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

35  
36 (i) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;

37  
38 (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing;

39  
40 (iii) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

41  
42 (iv) an enterprise authorized to do business in this state and independently owned and operated; and

43  
44 (v) an enterprise that is a small business.

45  
46 (d) A firm owned by a minority group member who is also a woman may be defined as a minority-owned business, a women-owned business, or both.

47  
48 (e) "Distressed farmer" shall mean: (i) a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that meets the small farm classification developed by the Economic Research Service of the United States

1 States Department of Agriculture, has filed a schedule F with farm  
2 receipts for the last three years, qualifies for an agriculture assess-  
3 ment and meets other qualifications defined in regulation by the board  
4 to demonstrate that they operate a farm operation as defined in section  
5 three hundred one of the agriculture and markets law and has been  
6 disproportionately impacted, including but not limited to incurring  
7 operating losses, by low commodity prices and faces the loss of farmland  
8 through development or suburban sprawl and meets any other qualifica-  
9 tions as defined in regulation by board; or (ii) a New York state resi-  
10 dent or business enterprise, including a sole proprietorship, partner-  
11 ship, limited liability company or corporation, that is a small farm  
12 operator and a member of a group that has been historically underrepre-  
13 sented in farm ownership and meets any other qualifications as defined  
14 in regulation by board.

15 (f) "Service-disabled veterans" shall mean persons qualified under  
16 article seventeen-B of the executive law.

17 (g) "Communities disproportionately impacted" shall mean, but not be  
18 limited to, a history of arrests, convictions, and other law enforcement  
19 practices in a certain geographic area, such as, but not limited to,  
20 precincts, zip codes, neighborhoods, and political subdivisions,  
21 reflecting a disparate enforcement of cannabis prohibition during a  
22 certain time period, when compared to the rest of the state. The board  
23 shall, with recommendations from the state cannabis advisory board, the  
24 chief equity officer and executive director, issue guidelines to deter-  
25 mine how to assess which communities have been disproportionately  
26 impacted and how to assess if someone is a member of a community dispro-  
27 portionately impacted.

28 6. The board shall actively promote applicants that foster racial,  
29 ethnic, and gender diversity in their workforce.

30 7. Licenses issued under the social and economic equity plan shall not  
31 be transferred or sold within the first three years of issue, except to  
32 a qualified social and economic equity applicant and with the prior  
33 written approval of the board. In the event a social and economic equity  
34 applicant seeks to transfer or sell their license at any point after  
35 issue and the transferee is to a person or entity that does not qualify  
36 as a social and economic equity applicant, the transfer agreement shall  
37 require the new license holder to pay to the board any outstanding  
38 amount owed by the transferor to the board as repayment of any loan  
39 issued by the board as well as any other fee or assessment as determined  
40 by the board.

41 § 88. Data collection and reporting. The board shall collect demo-  
42 graphic data on owners and employees in the adult-use cannabis industry  
43 and shall annually publish such data in its annual report.

44 § 89. Regulations. The board shall promulgate regulations with recom-  
45 mendations from the state cannabis advisory board to implement this  
46 article.

#### 47 ARTICLE 5

#### 48 CANNABINOID HEMP AND HEMP EXTRACT

49 Section 90. Definitions.

50 91. Rulemaking authority.

51 92. Cannabinoid hemp processor license.

52 93. Cannabinoid hemp retailer license.

53 94. Cannabinoid license applications.

54 95. Information to be requested in applications for licenses.



- 1 96. Fees.
- 2 97. Selection criteria.
- 3 98. License renewal.
- 4 99. Form of license.
- 5 100. Transferability; amendment to license; change in ownership
- 6 or control.
- 7 101. Granting, suspending or revoking licenses.
- 8 102. Record keeping and tracking.
- 9 103. Packaging and labeling of cannabinoid hemp and hemp
- 10 extract.
- 11 104. Processing of cannabinoid hemp and hemp extract.
- 12 105. Laboratory testing.
- 13 106. New York hemp product.
- 14 107. Penalties.
- 15 108. Hemp workgroup.
- 16 109. Prohibitions.
- 17 110. Special use permits.
- 18 111. Severability.

19 § 90. Definitions. As used in this article, the following terms shall  
20 have the following meanings, unless the context clearly requires other-  
21 wise:

22 1. "Cannabinoid" means the phytocannabinoids found in hemp and does  
23 not include synthetic cannabinoids as that term is defined in subdivi-  
24 sion (g) of schedule I of section thirty-three hundred six of the public  
25 health law.

26 2. "Cannabinoid hemp" means any hemp and any product processed or  
27 derived from hemp, that is used for human consumption provided that when  
28 such product is packaged or offered for retail sale to a consumer, it  
29 shall not have a concentration of more than three tenths of one percent  
30 delta-9 tetrahydrocannabinol.

31 3. "Used for human consumption" means intended by the manufacturer or  
32 distributor to be: (a) used for human consumption for its cannabinoid  
33 content; or (b) used in, on or by the human body for its cannabinoid  
34 content.

35 4. "Hemp" means the plant *Cannabis sativa* L. and any part of such  
36 plant, including the seeds thereof and all derivatives, extracts, canna-  
37 binoids, isomers, acids, salts, and salts of isomers, whether growing or  
38 not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more  
39 than three-tenths of a percent on a dry weight basis. It shall not  
40 include "medical cannabis" as defined in section three of this chapter.

41 5. "Hemp extract" means all derivatives, extracts, cannabinoids, isom-  
42 ers, acids, salts, and salts of isomers derived from hemp, used or  
43 intended for human consumption, for its cannabinoid content, with a  
44 delta-9 tetrahydrocannabinol concentration of not more than an amount  
45 determined by the board in regulation. For the purpose of this article,  
46 hemp extract excludes (a) any food, food ingredient or food additive  
47 that is generally recognized as safe pursuant to federal law; or (b) any  
48 hemp extract that is not used for human consumption. Such excluded  
49 substances shall not be regulated pursuant to the provisions of this  
50 article but are subject to other provisions of applicable state law,  
51 rules and regulations.

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

53 7. "Cannabinoid hemp processor license" means a license granted by the  
54 board to process, extract, pack or manufacture cannabinoid hemp or hemp  
55 extract into products, whether in intermediate or final form, used for  
56 human consumption.

1 8. "Processing" means extracting, preparing, treating, modifying,  
2 compounding, manufacturing or otherwise manipulating cannabinoid hemp to  
3 concentrate or extract its cannabinoids, or creating product, whether in  
4 intermediate or final form, used for human consumption. For purposes of  
5 this article, processing does not include: (a) growing, cultivation,  
6 cloning, harvesting, drying, curing, grinding or trimming when author-  
7 ized pursuant to article twenty-nine of the agriculture and markets law;  
8 or

9 (b) mere transportation, such as by common carrier or another entity  
10 or individual.

11 9. "Cannabinoid hemp flower" means the flower of the plant *Cannabis*  
12 *sativa* L. that has been harvested, dried, and cured, with a delta-9  
13 tetrahydrocannabinol concentration of not more than three-tenths of one  
14 percent, on a dry weight basis, prior to any processing.

15 10. "Cannabinoid hemp flower product" means cannabinoid hemp flower  
16 that has been minimally processed consistent with the requirements of  
17 this article, intended for retail sale to consumers.

18 § 91. Rulemaking authority. The board may make regulations pursuant to  
19 this article for the processing, distribution, marketing, transportation  
20 and sale of cannabinoid hemp and hemp extracts used for human consump-  
21 tion, which may include, but not be limited to:

22 1. Specifying forms, establishing application, reasonable adminis-  
23 tration and renewal fees, or license duration;

24 2. Establishing the qualifications and criteria for licensing, as  
25 authorized by law;

26 3. The books and records to be created and maintained by licensees and  
27 lawful procedures for their inspection;

28 4. Any reporting requirements;

29 5. Methods and standards of processing, labeling, packaging and  
30 marketing of cannabinoid hemp, hemp extract and products derived there-  
31 from;

32 6. Procedures for how cannabinoid hemp, hemp extract or ingredients,  
33 additives, or products derived therefrom can be deemed as acceptable for  
34 sale in the state;

35 7. Provisions governing the modes and forms of administration, includ-  
36 ing inhalation;

37 8. Procedures for determining whether cannabinoid hemp, hemp extract  
38 or ingredients, additives, or products derived therefrom produced  
39 outside the state or within the state meet the standards and require-  
40 ments of this article and can therefore be sold within the state;

41 9. Procedures for the granting, cancellation, revocation or suspension  
42 of licenses, consistent with the state administrative procedures act;

43 10. Restrictions governing the advertising and marketing of cannabi-  
44 noid hemp, hemp extract and products derived therefrom;

45 11. Any other regulations necessary to implement this article;

46 12. Nothing in this article shall prevent the sale of cannabinoid hemp  
47 flower; provided however, that any cannabinoid hemp flower product sold  
48 shall be limited to a person over twenty-one years of age and shall be  
49 subject to regulations promulgated by the board; provided further that  
50 such regulations shall not unduly restrict the availability of cannabi-  
51 noid hemp flower; and

52 13. Any cannabinoid hemp flower product clearly labeled or advertised  
53 for the purposes of smoking, or in the form of a cigarette, cigar, or  
54 pre-roll, or packaged or combined with other items designed to facili-  
55 tate smoking such as rolling papers or pipes, shall only be offered for

1 sale in adult-use cannabis retail dispensaries licensed pursuant to  
2 article four of this chapter.

3 § 92. Cannabinoid hemp processor license. 1. Persons processing canna-  
4 binoid hemp or hemp extract used for human consumption, whether in  
5 intermediate or final form, shall be required to obtain a cannabinoid  
6 hemp processor license from the board.

7 2. A cannabinoid hemp processor license authorizes one or more specif-  
8 ic activities related to the processing of cannabinoid hemp into  
9 products used for human consumption, whether in intermediate or final  
10 form, and the distribution or sale thereof by the licensee. Nothing  
11 herein shall prevent a cannabinoid hemp processor from processing,  
12 extracting and processing hemp products not to be used for human  
13 consumption.

14 3. Persons authorized to grow hemp pursuant to article twenty-nine of  
15 the agriculture and markets law are not authorized to engage in process-  
16 ing of cannabinoid hemp or hemp extract without first being licensed as  
17 a cannabinoid hemp processor under this article.

18 4. This article shall not apply to hemp, cannabinoid hemp, hemp  
19 extracts or products derived therefrom that are not used for human  
20 consumption. This article also shall not apply to hemp, cannabinoid  
21 hemp, hemp extracts or products derived therefrom that have been deemed  
22 generally recognized as safe pursuant to federal law.

23 5. The board shall have the authority to set reasonable fees for such  
24 license, to limit the activities permitted by such license, to establish  
25 the period during which such license is authorized, which shall be two  
26 years or more, and to make rules and regulations necessary to implement  
27 this section.

28 6. Any person holding an active research partnership agreement with  
29 the department of agriculture and markets, authorizing that person to  
30 process cannabinoid hemp, shall be awarded licensure under this section,  
31 provided that the research partner is actively performing research  
32 pursuant to such agreement and is able to demonstrate compliance with  
33 this article, as determined by the board, after notice and an opportu-  
34 nity to be heard.

35 § 93. Cannabinoid hemp retailer license. 1. Retailers selling cannabi-  
36 noid hemp, in final form to consumers within the state, shall be  
37 required to obtain a cannabinoid hemp retailer license from the board.

38 2. The board shall have the authority to set reasonable fees for such  
39 license, to establish the period during which such license is author-  
40 ized, which shall be one year or more, and to make rules and regulations  
41 necessary to implement this section.

42 § 94. Cannabinoid license applications. 1. Persons shall apply for a  
43 license under this article by submitting an application upon a form  
44 supplied by the board, providing all the relevant requested information,  
45 verified by the applicant or an authorized representative of the appli-  
46 cant.

47 2. A separate license shall be required for each facility at which  
48 processing or retail sales are conducted; however, an applicant may  
49 submit one application for separate licensure at multiple locations.

50 3. Each applicant shall remit with its application the fee for each  
51 requested license, which shall be a reasonable fee.

52 § 95. Information to be requested in applications for licenses. 1. The  
53 board may specify the manner and form in which an application shall be  
54 submitted to the board for licensure under this article.

55 2. The board may adopt regulations establishing what relevant informa-  
56 tion shall be included on an application for licensure under this arti-

1 cle. Such information may include, but is not limited to: information  
2 about the applicant's identity; ownership and investment information,  
3 including the corporate structure; evidence of good moral character;  
4 financial statements; information about the premises to be licensed;  
5 information about the activities to be licensed; and any other relevant  
6 information specified in regulation.

7 3. All license applications shall be signed by the applicant if an  
8 individual, by a managing partner if a limited liability company, by an  
9 officer if a corporation, or by all partners if a partnership. Each  
10 person signing such application shall verify it as true under the penal-  
11 ties of perjury.

12 4. All license applications shall be accompanied by a check, draft or  
13 other forms of payment as the board may require or authorize in the  
14 reasonable amount required by this article for such license.

15 5. If there be any change, after the filing of the application or the  
16 granting, modification or renewal of a license, in any of the material  
17 facts required to be set forth in such application, a supplemental  
18 statement giving notice of such change, duly verified, shall be filed  
19 with the board within ten days after such change. Failure to do so, if  
20 willful and deliberate, may be grounds for revocation of the license.

21 § 96. Fees. The board may charge licensees a reasonable license fee.  
22 Such fee may be based on the activities permitted by the license, the  
23 amount of cannabinoid hemp or hemp extract to be processed or extracted  
24 by the licensee, the gross annual receipts of the licensee for the  
25 previous license period, or any other factors reasonably deemed appro-  
26 priate by the board.

27 § 97. Selection criteria. 1. The applicant, if an individual or indi-  
28 viduals, shall furnish evidence of the individual's good moral charac-  
29 ter, and if an entity, the applicant shall furnish evidence of the good  
30 moral character of the individuals who have or will have substantial  
31 responsibility for the licensed or authorized activity and those in  
32 control of the entity, including principals, officers, or others with  
33 such control.

34 2. The applicant shall furnish evidence of the applicant's experience  
35 and competency, and that the applicant has or will have adequate facili-  
36 ties, equipment, process controls, and security to undertake those  
37 activities for which licensure is sought.

38 3. The applicant shall furnish evidence of his, her or its ability to  
39 comply with all applicable state and local laws, rules and regulations.

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

43 5. No license pursuant to this article may be issued to an individual  
44 under the age of eighteen years.

45 § 98. License renewal. 1. Each license, issued pursuant to this arti-  
46 cle, may be renewed upon application therefor by the licensee and the  
47 payment of the reasonable fee for such license as specified by this  
48 article.

49 2. In the case of applications for renewals, the board 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.

52 3. The board shall provide an application for renewal of any license  
53 issued under this article not less than ninety days prior to the expira-  
54 tion of the current license.

55 4. The board may only issue a renewal license upon receipt of the  
56 specified renewal application and renewal fee from a licensee if, in

1 addition to the selection criteria set out in this article, the  
2 licensee's license is not under suspension and has not been revoked.

3 § 99. Form of license. Licenses issued pursuant to this article shall  
4 specify:

5 1. The name and address of the licensee;

6 2. The activities permitted by the license;

7 3. The land, buildings and facilities that may be used for the  
8 licensed activities of the licensee;

9 4. A unique license number issued by the board to the licensee; and

10 5. Such other information as the board shall deem necessary to assure  
11 compliance with this article.

12 § 100. Transferability; amendment to license; change in ownership or  
13 control. 1. Licenses issued under this article are not transferable,  
14 absent written consent of the board.

15 2. Upon application of a licensee, a license may be amended to add or  
16 delete permitted activities.

17 3. A license shall become void by a change in ownership, substantial  
18 corporate change or change of location without prior written approval of  
19 the board. The board may make regulations allowing for certain types of  
20 changes in ownership without the need for prior written approval.

21 § 101. Granting, suspending or revoking licenses. After due notice and  
22 an opportunity to be heard, established by rules and regulations, the  
23 board may decline to grant a new license, impose conditions or limits  
24 with respect to the grant of a license, modify an existing license or  
25 decline to renew a license, and may suspend or revoke a license already  
26 granted after due notice and an opportunity to be heard, as established  
27 by rules and regulations, whenever the board finds that:

28 1. A material statement contained in an application is or was false or  
29 misleading;

30 2. The applicant or licensee, or a person in a position of management  
31 and control thereof or of the licensed activity, does not have good  
32 moral character, necessary experience or competency, adequate facilities,  
33 equipment, process controls, or security to process, distribute,  
34 transport or sell cannabinoid hemp, hemp extract or products derived  
35 therefrom;

36 3. After appropriate notice and opportunity, the applicant or licensee  
37 has failed or refused to produce any records or provide any information  
38 required by this article or the regulations promulgated pursuant there-  
39 to;

40 4. The licensee has conducted activities outside of those activities  
41 permitted on its license; or

42 5. The applicant or licensee, or any officer, director, partner, or  
43 any other person exercising any position of management or control there-  
44 of or of the licensed activity has willfully failed to comply with any  
45 of the provisions of this article or regulations under it and other laws  
46 of this state applicable to the licensed activity.

47 § 102. Record keeping and tracking. Every licensee shall keep, in such  
48 form as the board may direct, such relevant records as may be required  
49 pursuant to regulations under this article.

50 § 103. Packaging and labeling of cannabinoid hemp and hemp extract. 1.  
51 Cannabinoid hemp processors shall be required to provide appropriate  
52 label warning to consumers, and restricted from making unapproved label  
53 claims, as determined by the board, concerning the potential impact on  
54 or benefit to human health resulting from the use of cannabinoid hemp,  
55 hemp extract and products derived therefrom for human consumption, which

1 labels shall be affixed to those products when sold, pursuant to rules  
2 and regulations that the board may adopt.

3 2. The board may, by rules and regulations, require processors to  
4 establish a code, including, but not limited to QR code, for labels and  
5 establish methods and procedures for determining, among other things,  
6 serving sizes or dosages for cannabinoid hemp, hemp extract and products  
7 derived therefrom, active cannabinoid concentration per serving size,  
8 number of servings per container, and the growing region, state or coun-  
9 try of origin if not from the United States. Such rules and regulations  
10 may require an appropriate fact panel that incorporates data regarding  
11 serving sizes and potency thereof.

12 3. The packaging, sale, or possession of products derived from canna-  
13 binoid hemp or hemp extract used for human consumption not labeled or  
14 offered in conformity with regulations under this section shall be  
15 grounds for the seizure or quarantine of the product, the imposition of  
16 a civil penalty against a processor or retailer, and the suspension,  
17 revocation or cancellation of a license, in accordance with this arti-  
18 cle.

19 § 104. Processing of cannabinoid hemp and hemp extract. 1. No process-  
20 or shall sell or agree to sell or deliver in the state any cannabinoid  
21 hemp, hemp extract or product derived therefrom, used for human consump-  
22 tion, except in sealed containers containing quantities in accordance  
23 with size standards pursuant to rules adopted by the board. Such  
24 containers shall have affixed thereto such labels as may be required by  
25 the rules of the board.

26 2. Processors shall take such steps necessary to ensure that the  
27 cannabinoid hemp or hemp extract used in their processing operation has  
28 only been grown with pesticides that are registered by the department of  
29 environmental conservation or that specifically meet the United States  
30 environmental protection agency registration exemption criteria for  
31 minimum risk, used in compliance with rules, regulations, standards and  
32 guidelines issued by the department of environmental conservation for  
33 pesticides.

34 3. All cannabinoid hemp, hemp extract and products derived therefrom  
35 used for human consumption shall be extracted and processed in accord-  
36 ance with good manufacturing processes pursuant to Part 117 or Part 111  
37 of title 21 of the code of federal regulations, as may be defined, modi-  
38 fied and decided upon by the board in rules or regulations.

39 4. As necessary to protect human health, the board shall have the  
40 authority to: (a) regulate and prohibit specific ingredients, excipients  
41 or methods used in processing cannabinoid hemp, hemp extract and  
42 products derived therefrom; and (b) prohibit, or expressly allow,  
43 certain products or product classes derived from cannabinoid hemp or  
44 hemp extract, to be processed.

45 § 105. Laboratory testing. Every cannabinoid hemp processor shall  
46 contract with an independent commercial laboratory to test the hemp  
47 extract and products produced by the licensed processor. The board shall  
48 establish the necessary qualifications or certifications required for  
49 such laboratories used by licensees. The board is authorized to issue  
50 rules and regulations consistent with this article establishing the  
51 testing required, the reporting of testing results and the form for  
52 reporting such laboratory testing results. The board has authority to  
53 require licensees to submit any cannabinoid hemp, hemp extract or prod-  
54 uct derived therefrom, processed or offered for sale within the state,  
55 for testing by the board. This section shall not obligate the board, in

1 any way, to perform any testing on hemp, cannabinoid hemp, hemp extract  
2 or product derived therefrom.

3 § 106. New York hemp product. The board may establish and adopt offi-  
4 cial grades and standards for cannabinoid hemp, hemp extract and  
5 products derived therefrom, as the board may deem advisable, which are  
6 produced for sale in this state and, from time to time, may amend or  
7 modify such grades and standards.

8 § 107. Penalties. Notwithstanding the provision of any law to the  
9 contrary, the failure to comply with a requirement of this article, or a  
10 regulation thereunder, may be punishable by a civil penalty of not more  
11 than one thousand dollars for a first violation; not more than five  
12 thousand dollars for a second violation within three years; and not more  
13 than ten thousand dollars for a third violation and each subsequent  
14 violation thereafter, within three years.

15 § 108. Hemp workgroup. The board, in consultation with the commis-  
16 sioner of the department of agriculture and markets, may appoint a New York  
17 state hemp and hemp extract workgroup, composed of growers, researchers,  
18 producers, processors, manufacturers and trade associations, to make  
19 recommendations for the industrial hemp and cannabinoid hemp programs,  
20 state and federal policies and policy initiatives, and opportunities for  
21 the promotion and marketing of cannabinoid hemp and hemp extract as  
22 consistent with federal and state laws, rules and regulations.

23 § 109. Prohibitions. 1. Except as authorized by the United States food  
24 and drug administration, the processing of cannabinoid hemp or hemp  
25 extract used for human consumption is prohibited within the state unless  
26 the processor is licensed under this article.

27 2. Cannabinoid hemp and hemp extracts used for human consumption and  
28 grown or processed outside the state shall not be distributed or sold at  
29 retail within the state, unless they meet all standards established for  
30 cannabinoid hemp under state law and regulations.

31 3. The retail sale of cannabinoid hemp is prohibited in this state  
32 unless the retailer is licensed under this article.

33 § 110. Special use permits. The board shall have the authority to  
34 issue temporary permits for carrying on any activity related to cannabi-  
35 noid hemp, hemp extract and products derived therefrom, licensed under  
36 this article. The board may set reasonable fees for such permits, to  
37 establish the periods during which such permits are valid, and to make  
38 rules and regulations to implement this section.

39 § 111. Severability. If any provision of this article or the applica-  
40 tion thereof to any person or circumstances is held invalid, such inva-  
41 lidity shall not affect other provisions or applications of this article  
42 which can be given effect without the invalid provision or application,  
43 and to this end the provisions of this article are declared to be sever-  
44 able.

45 ARTICLE 6  
46 GENERAL PROVISIONS

- 47 Section 125. General prohibitions and restrictions.  
48 126. License to be confined to premises licensed; premises for  
49 which no license shall be granted; transporting canna-  
50 bis.  
51 127. Protections for the use of cannabis; unlawful discrimi-  
52 nations prohibited.  
53 128. Permits, registrations and licenses.  
54 129. Laboratory testing permits.

- 1           130. Special use permits.  
2           131. Local opt-out; municipal control and preemption.  
3           131-a. Office to be necessary party to certain proceedings.  
4           132. Penalties for violation of this chapter.  
5           133. Revocation of registrations, licenses and permits for  
6                 cause; procedure for revocation or cancellation.  
7           134. Lawful actions pursuant to this chapter.  
8           135. Review by courts.  
9           136. Illicit cannabis.  
10          137. Persons forbidden to traffic cannabis; certain officials  
11                 not to be interested in manufacture or sale of cannabis  
12                 products.  
13          138. Access to criminal history information through the divi-  
14                 sion of criminal justice services.  
15          138-a. Injunction for unlawful manufacturing, sale, or distrib-  
16                 ution of cannabis.  
17          139. Severability.
- 18   § 125. General prohibitions and restrictions. 1. No person shall  
19   cultivate, process, distribute for sale or sell at wholesale or retail  
20   or deliver to consumers any cannabis, cannabis product, medical cannabis  
21   or cannabinoid hemp or hemp extract product within the state without  
22   obtaining the appropriate registration, license, or permit therefor  
23   required by this chapter unless otherwise authorized by law.  
24   2. No registered organization, licensee, or permittee or other entity  
25   under the jurisdiction of the board shall sell, or agree to sell or  
26   deliver in this state any cannabis or cannabinoid hemp or hemp extract  
27   for 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 or other entity  
32   under the jurisdiction of the board shall employ, or permit to be  
33   employed, or shall allow to work, on any premises registered or licensed  
34   for retail sale hereunder, any person under the age of eighteen years in  
35   any capacity where the duties of such person require or permit such  
36   person to sell, dispense or handle cannabis. Any employee eighteen  
37   years of age or older and under twenty-one years of age may not have  
38   direct interaction with customers inside a licensed retail store.  
39   4. No registered organization, licensee, or permittee, or other entity  
40   under the jurisdiction of the board, shall sell, deliver or give away,  
41   or cause, permit or procure to be sold, delivered or given away any  
42   cannabis, cannabis product, or medical cannabis on credit; except that a  
43   registered organization, licensee or permittee may accept third party  
44   credit cards for the sale of any cannabis, cannabis product, or medical  
45   cannabis for which it is registered, licensed or permitted to dispense  
46   or sell to patients or cannabis consumers. This includes, but is not  
47   limited to, any consignment sale of any kind.  
48   5. No registered organization, licensee, or permittee, or other entity  
49   under the jurisdiction of the board, shall cease to be operated as a  
50   bona fide or legitimate premises within the contemplation of the regis-  
51   tration, license, or permit issued for such premises, as determined  
52   within the judgment of the board.  
53   6. No registered organization, licensee, or permittee, or other entity  
54   under the jurisdiction of the board, shall refuse, nor any person hold-  
55   ing a registration, license, or permit refuse, nor any officer or direc-  
56   tor of any corporation or organization holding a registration, license,



1 or permit refuse, to appear and/or testify under oath at an inquiry or  
2 hearing held by the board, with respect to any matter bearing upon the  
3 registration, license, or permit, the conduct of any people at the  
4 licensed premises, or bearing upon the character or fitness of such  
5 registrant, licensee, or permittee, or other entity under the jurisdic-  
6 tion of the board, to continue to hold any registration, license, or  
7 permit. Nor shall any of the above offer false testimony under oath at  
8 such inquiry or hearing.

9 7. No registered organization, licensee, or permittee, or other entity  
10 under the jurisdiction of the board, shall engage, participate in, or  
11 aid or abet any violation of any provision of this chapter, or the rules  
12 or regulations of the board.

13 8. It shall be the responsibility of the registered organization,  
14 licensee or permittee, or other entity under the jurisdiction of the  
15 board, to exercise adequate supervision over the registered, licensed or  
16 permitted location. Persons registered, licensed, or permitted shall be  
17 held strictly accountable for any and all violations that occur upon any  
18 registered, licensed, or permitted premises, and for any and all  
19 violations committed by or permitted by any manager, agent or employee  
20 of such registered, licensed, or permitted person.

21 9. As it is a privilege under the law to be registered, licensed, or  
22 permitted to cultivate, process, distribute, or sell cannabis, the board  
23 may impose any such further restrictions upon any registrant, licensee,  
24 or permittee in particular instances as it deems necessary to further  
25 state policy and best serve the public interest. A violation or failure  
26 of any person registered, licensed, or permitted to comply with any  
27 condition, stipulation, or agreement, upon which any registration,  
28 license, or permit was issued or renewed by the board may, in accordance  
29 with this chapter subject the registrant, licensee, or permittee to  
30 suspension, cancellation, revocation, and/or civil penalties in accord-  
31 ance with this chapter, as determined by the board.

32 10. No adult-use cannabis or medical cannabis may be imported to, or  
33 exported out of, New York state by a registered organization, licensee  
34 or person holding a license and/or permit pursuant to this chapter,  
35 until such time as it may become legal to do so under federal law.  
36 Should it become legal to do so under federal law, the board may promul-  
37 gate such rules and regulations as it deems necessary to protect the  
38 public and the policy of the state, including but not limited to prior-  
39 itize and promote New York cannabis. Further, all such cannabis or  
40 cannabis products must be distributed in a manner consistent with the  
41 provisions of this chapter.

42 11. No registered organization, licensee or any of its agents, serv-  
43 ants or employees shall sell any cannabis product, or medical cannabis  
44 from house to house by means of a truck or otherwise, where the sale is  
45 consummated and delivery made concurrently at the residence or place of  
46 business of a cannabis consumer. This subdivision shall not prohibit the  
47 delivery by a registered organization to certified patients or their  
48 designated caregivers, pursuant to article three of this chapter.

49 12. No licensee shall employ any canvasser or solicitor for the  
50 purpose of receiving an order from a certified patient, designated care-  
51 giver or cannabis consumer for any cannabis product, or medical cannabis  
52 at the residence or place of business of such patient, caregiver or  
53 consumer, nor shall any licensee receive or accept any order, for the  
54 sale of any cannabis product, or medical cannabis which shall be solici-  
55 ited at the residence or place of business of a patient, caregiver or  
56 consumer. This subdivision shall not prohibit the solicitation by a

1 distributor of an order from any licensee at the licensed premises of  
2 such licensee.

3 § 126. License to be confined to premises licensed; premises for which  
4 no license shall be granted; transporting cannabis. 1. A registration,  
5 license, or permit issued to any person, pursuant to this chapter, for  
6 any registered, licensed, or permitted premises shall not be transfera-  
7 ble to any other person, to any other location or premises, or to any  
8 other building or part of the building containing the licensed premises  
9 except in the discretion of the office. All privileges granted by any  
10 registration, license, or permit shall be available only to the person  
11 therein specified, and only for the premises licensed and no other  
12 except if authorized by the board. Provided, however, that the  
13 provisions of this section shall not be deemed to prohibit the amendment  
14 of a registration or license as provided for in this chapter. A  
15 violation of this section shall subject the registration, license, or  
16 permit to revocation for cause.

17 2. Where a registration or license for premises has been revoked, the  
18 board in its discretion may refuse to issue a registration, license, or  
19 permit under this chapter, for a period of up to five years after such  
20 revocation, for such premises or for any part of the building containing  
21 such premises and connected therewith.

22 3. In determining whether to issue such a proscription against grant-  
23 ing any registration, license, or permit for such five-year period, in  
24 addition to any other factors deemed relevant to the board, the board  
25 shall, in the case of a license revoked due to the sale of cannabis to a  
26 person under the age of twenty-one not otherwise authorized by this  
27 chapter, determine whether the proposed subsequent licensee has obtained  
28 such premises through an arm's length transaction, and, if such trans-  
29 action is not found to be an arm's length transaction, the office shall  
30 deny the issuance of such license.

31 4. For purposes of this section, "arm's length transaction" shall mean  
32 a sale of a fee of all undivided interests in real property, lease,  
33 management agreement, or other agreement giving the applicant control  
34 over the cannabis at the premises, or any part thereof, in the open  
35 market, between an informed and willing buyer and seller where neither  
36 is under any compulsion to participate in the transaction, unaffected by  
37 any unusual conditions indicating a reasonable possibility that the sale  
38 was made for the purpose of permitting the original licensee to avoid  
39 the effect of the revocation. The following sales shall be presumed not  
40 to be arm's length transactions unless adequate documentation is  
41 provided demonstrating that the sale, lease, management agreement, or  
42 other agreement giving the applicant control over the cannabis at the  
43 premises, was not conducted, in whole or in part, for the purpose of  
44 permitting the original licensee to avoid the effect of the revocation:

45 (a) a sale between relatives;  
46 (b) a sale between related companies or partners in a business; or  
47 (c) a sale, lease, management agreement, or other agreement giving the  
48 applicant control over the cannabis at the premises, affected by other  
49 facts or circumstances that would indicate that the sale, lease, manage-  
50 ment agreement, or other agreement giving the applicant control over the  
51 cannabis at the premises, is entered into for the primary purpose of  
52 permitting the original licensee to avoid the effect of the revocation.

53 5. No registered organization, licensee or permittee shall transport  
54 cannabis products or medical cannabis except in vehicles owned and oper-  
55 ated by such registered organization, licensee or permittee, or hired  
56 and operated by such registered organization, licensee or permittee from

1 a trucking or transportation company permitted and registered with the  
2 board.

3 6. No common carrier or person operating a transportation facility in  
4 this state, other than the United States government, shall knowingly  
5 receive for transportation or delivery within the state any cannabis  
6 products or medical cannabis unless the shipment is accompanied by a  
7 copy of a bill of lading, or other document, showing the name and  
8 address of the consignor, the name and address of the consignee, the  
9 date of the shipment, and the quantity and kind of cannabis products or  
10 medical cannabis contained therein.

11 § 127. Protections for the use of cannabis; unlawful discriminations  
12 prohibited. 1. No person, registered organization, licensee or permit-  
13 tee, employees, or their agents shall be subject to arrest, prosecution,  
14 or penalty in any manner, or denied any right or privilege, including  
15 but not limited to civil liability or disciplinary action by a business  
16 or occupational or professional licensing board or office, solely for  
17 conduct permitted under this chapter. For the avoidance of doubt, the  
18 appellate division of the supreme court of the state of New York, and  
19 any disciplinary or character and fitness committees established by law  
20 are occupational and professional licensing boards within the meaning of  
21 this section. State or local law enforcement agencies shall not cooper-  
22 ate with or provide assistance to the government of the United States or  
23 any agency thereof in enforcing the federal controlled substances act  
24 solely for actions consistent with this chapter, except as pursuant to a  
25 valid court order.

26 2. No landlord may refuse to lease to and may not otherwise penalize  
27 an individual solely for conduct authorized under this chapter, except:

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

30 (b) if a property has in place a smoke-free policy, it is not required  
31 to permit the smoking of cannabis products on its premises, provided no  
32 such restriction may be construed to limit the certified medical use of  
33 cannabis.

34 2-a. No school, college or university may refuse to enroll and may not  
35 otherwise penalize a person solely for conduct allowed under this chap-  
36 ter, except:

37 (a) if failing to do so would cause the school, college or university  
38 to lose a monetary or licensing related benefit under federal law or  
39 regulations; or

40 (b) if the school, college or university has adopted a code of conduct  
41 prohibiting cannabis use on the basis of a sincere religious belief of  
42 the school, college or university.

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. An employer shall adhere to policies regarding cannabis use in  
50 accordance with section two hundred one-d of the labor law.

51 5. No person may be denied custody of or visitation or parenting time  
52 with a minor under the family court act, domestic relations law or  
53 social services law, solely for conduct permitted under this chapter  
54 including, but not limited to, section 222.05 or 222.15 of the penal  
55 law, unless it is in the best interest of the child and the child's  
56 physical, mental or emotional condition has been impaired, or is in

1 imminent danger of becoming impaired as a result of the person's behav-  
2 ior as established by a fair preponderance of the evidence. For the  
3 purposes of this section, this determination cannot be based solely on  
4 whether, when, and how often a person uses cannabis without separate  
5 evidence of harm.

6 6. A person currently under parole, probation or other state super-  
7 vision, or released on recognizance, non-monetary conditions, or bail  
8 prior to being convicted, shall not be punished or otherwise penalized  
9 for conduct allowed under this chapter unless the terms and conditions  
10 of said parole, probation, or state supervision explicitly prohibit a  
11 person's cannabis use or any other conduct otherwise allowed under this  
12 chapter. A person's use of cannabis or conduct under this chapter shall  
13 not be prohibited unless it has been shown by clear and convincing  
14 evidence that the prohibition is reasonably related to the underlying  
15 crime. Nothing in this provision shall restrict the rights of a certi-  
16 fied medical patient.

17 § 128. Permits, registrations and licenses. 1. No permit, registra-  
18 tion or license shall be transferable or assignable except that notwith-  
19 standing any other provision of law, the permit, registration or license  
20 of a sole proprietor converting to corporate form, where such proprietor  
21 becomes the sole stockholder and only officer and director of such new  
22 corporation, may be transferred to the subject corporation if all  
23 requirements of this chapter remain the same with respect to such  
24 permit, registration or license as transferred and, further, the regis-  
25 tered organization or licensee shall transmit to the board, within ten  
26 days of the transfer of license allowable under this subdivision, on a  
27 form prescribed by the board, notification of the transfer of such  
28 license.

29 2. No permit, registration or license shall be pledged or deposited as  
30 collateral security for any loan or upon any other condition; and any  
31 such pledge or deposit, and any contract providing therefor, shall be  
32 void.

33 3. Permits, registrations and licenses issued under this chapter shall  
34 contain, in addition to any further information or material to be  
35 prescribed by the rules and regulations of the board, the following  
36 information:

- 37 (a) name of the person to whom the license is issued;  
38 (b) type of license and what type of cannabis commerce is thereby  
39 permitted;  
40 (c) description by street and number, or otherwise, of licensed prem-  
41 ises; and  
42 (d) a statement in substance that such license shall not be deemed a  
43 property or vested right, and that it may be revoked at any time pursu-  
44 ant to law.

45 § 129. Laboratory testing permits. 1. The board shall approve and  
46 permit one or more independent cannabis testing laboratories to test  
47 medical cannabis, adult-use cannabis and/or cannabinoid hemp or hemp  
48 extract.

49 2. To be permitted as an independent cannabis laboratory, a laboratory  
50 must apply to the office, on a form and in a manner prescribed by the  
51 office, which may include a reasonable fee, and must demonstrate the  
52 following to the satisfaction of the board:

- 53 (a) the owners and directors of the laboratory are of good moral char-  
54 acter;  
55 (b) the laboratory and its staff has the skills, resources and exper-  
56 tise needed to accurately and consistently perform all of the testing

1 required for adult-use cannabis, medical cannabis and/or cannabinoid  
2 hemp or hemp extract;

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

7 (d) for the testing of cannabis, the laboratory is physically located  
8 in New York state; and

9 (e) the laboratory meets any and all requirements prescribed by this  
10 chapter and by the board in regulation.

11 3. The owner of a laboratory testing permit under this section shall  
12 not hold a permit, registration or license in any category of this chap-  
13 ter and shall not have any direct or indirect ownership interest in such  
14 registered organization or licensee. No board member, officer, manager,  
15 owner, partner, principal stakeholder or member of a registered organ-  
16 ization or licensee under this chapter, or such person's immediate fami-  
17 ly member, shall have an interest or voting rights in any laboratory  
18 testing permittee.

19 4. The board shall require that the permitted laboratory report test-  
20 ing results to the board in a manner, form and timeframe as determined  
21 by the office.

22 5. The board is authorized to promulgate regulations, establishing  
23 minimum operating and testing requirements, and requiring permitted  
24 laboratories to perform certain tests and services.

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

28 7. The board is authorized to enter into contracts or memoranda of  
29 understanding with any other state for the purposes of aligning labora-  
30 tory testing requirements or establishing best practices in testing of  
31 cannabis.

32 § 130. Special use permits. The board shall have the authority to  
33 issue temporary permits for carrying on activities consistent with the  
34 policy and purpose of this chapter with respect to cannabis. No special  
35 use permit shall extend for a period longer than ninety days and shall  
36 not be renewable, except where a permit is being issued to a licensee as  
37 defined in article four of this chapter. A special use permit shall be  
38 issued pursuant to an abbreviated application process. The special use  
39 permit holder shall have ninety days in which to become fully licensed  
40 by satisfying all of the remaining conditions for licensure which were  
41 not required for the issuance of the special use permit.

42 The board may set reasonable fees for such permits and make rules and  
43 regulations to implement this section.

44 1. Industrial cannabis permit - to purchase cannabis from one of the  
45 entities licensed by the board 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 board in regulation.

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

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

1 4. Packaging permit - to authorize a licensed cannabis distributor to  
2 sort, package, label and bundle cannabis products from one or more  
3 registered organizations or licensed processors, on the premises of the  
4 licensed cannabis distributor or at a warehouse for which a permit has  
5 been issued under this section.

6 § 131. Local opt-out; municipal control and preemption. 1. The licen-  
7 sure and establishment of a retail dispensary license and/or on-site  
8 consumption license under the provisions of article four of this chapter  
9 authorizing the retail sale of adult-use cannabis to cannabis consumers  
10 shall not be applicable to a town, city or village which, after the  
11 effective date of this chapter, and, on or before the later of December  
12 thirty-first, two thousand twenty-one or nine months after the effective  
13 date of this section, adopts a local law, subject to permissive referen-  
14 dum governed by section twenty-four of the municipal home rule law,  
15 requesting the cannabis control board to prohibit the establishment of  
16 such retail dispensary licenses and/or on-site consumption licenses  
17 contained in article four of this chapter, within the jurisdiction of  
18 the town, city or village. Provided, however, that any town law shall  
19 apply to the area of the town outside of any village within such town.  
20 No local law may be adopted after the later of December thirty-first,  
21 two thousand twenty-one or nine months after the effective date of this  
22 section prohibiting the establishment of retail dispensary licenses  
23 and/or on-site consumption licenses; provided, however, that a local law  
24 repealing such prohibition may be adopted after such date.

25 2. Except as provided for in subdivision one of this section, all  
26 county, town, city and village governing bodies are hereby preempted  
27 from adopting any law, rule, ordinance, regulation or prohibition  
28 pertaining to the operation or licensure of registered organizations,  
29 adult-use cannabis licenses or cannabinoid hemp licenses. However,  
30 towns, cities and villages may pass local laws and regulations governing  
31 the time, place and manner of the operation of licensed adult-use canna-  
32 bis retail dispensaries and/or on-site consumption site, provided such  
33 law or regulation does not make the operation of such licensed retail  
34 dispensaries or on-site consumption sites unreasonably impracticable as  
35 determined by the board.

36 § 131-a. Office to be necessary party to certain proceedings. The  
37 office shall be made a party to all actions and proceedings affecting in  
38 any manner the possession, ownership or transfer of a registration,  
39 license or permit to operate within a municipality and to all such  
40 injunction proceedings.

41 § 132. Penalties for violation of this chapter. 1. Any person who  
42 cultivates for sale or sells cannabis, cannabis products, or medical  
43 cannabis without having an appropriate registration, license or permit  
44 therefor, or whose registration, license, or permit has been revoked,  
45 surrendered or cancelled, may be subject to prosecution in accordance  
46 with article two hundred twenty-two of the penal law.

47 2. Any registered organization or licensee, who has received notifica-  
48 tion of a registration or license suspension pursuant to the provisions  
49 of this chapter, who sells cannabis, cannabis products, medical cannabis  
50 or cannabinoid hemp or hemp extract during the suspension period, shall  
51 be subject to prosecution as provided in article two hundred twenty-two  
52 of the penal law, and upon conviction thereof under this section may be  
53 subject to a civil penalty of not more than five thousand dollars.

54 3. Any person who shall knowingly make any materially false statement  
55 in the application for a registration, license or a permit under this  
56 chapter may be subject to license or registration suspension, revoca-

1 tion, or denial subject to the board, and may be subject to a civil  
2 penalty of not more than two thousand dollars.

3 4. Any person under the age of twenty-one found to be in possession of  
4 cannabis or cannabis products who is not a certified patient pursuant to  
5 article three of this chapter shall be in violation of this chapter and  
6 shall be subject to the following penalty:

7 (a) (i) The person shall be subject to a civil penalty of not more  
8 than fifty dollars. The civil penalty shall be payable to the office of  
9 cannabis management.

10 (ii) Any identifying information provided by the enforcement agency  
11 for the purpose of facilitating payment of the civil penalty shall not  
12 be shared or disclosed under any circumstances with any other agency or  
13 law enforcement division.

14 (b) The person shall, upon payment of the required civil penalty, be  
15 provided with information related to the dangers of underage use of  
16 cannabis and information related to cannabis use disorder by the office.

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

22 5. Cannabis recovered from individuals who are found to be in  
23 violation of this chapter may after notice and opportunity for a hearing  
24 be considered a nuisance and shall be disposed of or destroyed.

25 6. After due notice and opportunity to be heard, as established by  
26 rules and regulations, nothing in this section shall prohibit the board  
27 from suspending, revoking, or denying a license, permit, registration,  
28 or application in addition to the penalties prescribed in this section.

29 § 133. Revocation of registrations, licenses and permits for cause;  
30 procedure for revocation or cancellation. 1. Any registration, license  
31 or permit issued pursuant to this chapter may be revoked, cancelled,  
32 suspended and/or subjected to the imposition of a civil penalty for  
33 cause.

34 2. There shall be a rebuttable presumption of revocation for the  
35 following causes:

36 (a) conviction of the registered organization, licensee, permittee or  
37 his or her agent or employee for selling any illicit cannabis on the  
38 premises registered, licensed or permitted; or

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

41 3. Notwithstanding the issuance of a registration, license or permit  
42 by way of renewal, the board may revoke, cancel or suspend such registration,  
43 license or permit and/or may impose a civil penalty against any  
44 holder of such registration, license or permit, as prescribed by this  
45 section, for causes or violations occurring during the license period  
46 immediately preceding the issuance of such registration, license or  
47 permit.

48 4. (a) As used in this section, the term "for cause" shall also  
49 include the existence of a sustained and continuing pattern of misconduct,  
50 failure to adequately prevent diversion or disorder on or about  
51 the registered, licensed or permitted premises, or in the area in front  
52 of or adjacent to the registered or licensed premises, or in any parking  
53 lot provided by the registered organization or licensee for use by  
54 registered organization or licensee's patrons, which significantly  
55 adversely affects or tends to significantly adversely affect the

1 protection, health, welfare, safety, or repose of the inhabitants of the  
2 area in which the registered or licensed premises is located.

3 (b) (i) As used in this section, the term "for cause" shall also  
4 include deliberately misleading the board or office of cannabis manage-  
5 ment:

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

8 (B) by substantially altering the nature or character of such business  
9 during the registration or licensing period without seeking appropriate  
10 approvals from the board.

11 (ii) As used in this subdivision, the term "substantially altering the  
12 nature or character" of such business shall mean any significant and  
13 material alteration in the scope of business activities conducted by a  
14 registered organization, licensee or permittee that would require  
15 obtaining an alternate form of registration, license or permit.

16 5. As used in this chapter, the existence of a sustained and continu-  
17 ing pattern of misconduct or disorder on or about the premises may be  
18 presumed upon the sixth incident reported to the board by a law enforce-  
19 ment agency, or discovered by the board during the course of any inves-  
20 tigation, of misconduct or disorder on or about the premises or related  
21 to the operation of the premises, absent clear and convincing evidence  
22 of either fraudulent intent on the part of any complainant or a factual  
23 error with respect to the content of any report concerning such  
24 complaint relied upon by the board.

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

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

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 board.

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 offense  
47 shall mean the sale of cannabis to a person under the age of twenty-one  
48 not otherwise authorized by this chapter. For purposes of this subdivi-  
49 sion only, a conviction of a licensee or an employee or agent of such  
50 licensee shall constitute a conviction of such licensee.

51 10. The board may adopt rules and regulations based on federal guid-  
52 ance, provided those rules and regulations are designed to comply with  
53 federal guidance and mitigate federal enforcement against the registra-  
54 tions, licenses, or permits issued under this chapter, or the cannabis  
55 industry as a whole. This may include regulations which permit the shar-  
56 ing of licensee, registrant, or permit holder information with desig-



1 nated banking or financial institutions, provided these regulations are  
2 designed to aid cannabis industry participants' access to banking and  
3 financial services.

4 § 134. Lawful actions pursuant to this chapter. 1. Contracts related  
5 to the operation of registered organizations, licenses and permits under  
6 this chapter shall be lawful and shall not be deemed unenforceable on  
7 the basis that the actions permitted pursuant to the registration,  
8 license or permit are prohibited by federal law.

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

14 (a) Actions of a registered organization, licensee, or permittee, or  
15 the employees or agents of such registered organization, licensee or  
16 permittee, as permitted by this chapter and consistent with rules and  
17 regulations of the office, pursuant to a valid registration, license or  
18 permit issued by the board.

19 (b) Actions of those who allow property to be used by a registered  
20 organization, licensee, or permittee, or the employees or agents of such  
21 registered organization, licensee or permittee, as permitted by this  
22 chapter and consistent with rules and regulations of the office, pursu-  
23 ant to a valid registration, license or permit issued by the board.

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

29 (d) The purchase, cultivation, possession, or consumption of cannabis  
30 and medical cannabis, as permitted by law, and consistent with rules and  
31 regulations of the board.

32 § 135. Review by courts. An action by the board shall be subject to  
33 review by the supreme court in the manner provided in article seventy-  
34 eight of the civil practice law and rules including, but not limited to:

35 (a) Refusal by the board to issue a registration, license, or a  
36 permit.

37 (b) The revocation, cancellation or suspension of a registration,  
38 license, or permit by the board.

39 (c) The failure or refusal by the board to render a decision upon any  
40 application or hearing submitted to or held by the board within sixty  
41 days after such submission or hearing.

42 (d) The transfer by the board of a registration, license, or permit to  
43 any other entity or premises, or the failure or refusal by the board to  
44 approve such a transfer.

45 (e) Refusal to approve alteration of premises.

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

48 § 136. Illicit cannabis. 1. "Illicit cannabis" means and includes any  
49 cannabis flower, concentrated cannabis and cannabis product on which any  
50 tax required to have been paid under any applicable state law, has not  
51 been paid. Illicit cannabis shall not include any cannabis lawfully  
52 possessed in accordance with this chapter or the penal law.

53 2. Any person holding a license, permit or registration under this  
54 chapter who shall knowingly possess or have under his or her control any  
55 cannabis known by the person to be illicit cannabis is guilty of a class  
56 B misdemeanor.

1 3. Any person holding a license, permit or registration pursuant to  
2 this chapter who shall knowingly barter, exchange, give or sell, or  
3 offer to barter, exchange, give or sell any cannabis known by the person  
4 to be illicit cannabis is guilty of a misdemeanor.

5 4. Any person holding a license, permit or registration pursuant to  
6 this chapter who shall knowingly possess or have under his or her  
7 control or transport any cannabis known by the person to be illicit  
8 cannabis with intent to barter, exchange, give or sell such cannabis is  
9 guilty of a class B misdemeanor.

10 5. Any person who, being the owner, lessee or occupant of any room,  
11 shed, tenement, booth, building, float, vessel or part thereof who know-  
12 ingly permits the same to be used for the cultivation, processing,  
13 distribution, purchase, sale, warehousing or transportation of any  
14 cannabis, in violation of a possession limit in the penal law, known by  
15 the person to be illicit cannabis, is guilty of a violation.

16 § 137. 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 except in extraordinary  
19 circumstances as determined by the board:

20 (a) An individual who has been convicted of an offense related to the  
21 functions or duties of owning and operating a business within three  
22 years of the application date, except that if the board determines that  
23 the owner or licensee is otherwise suitable to be issued a license, and  
24 the board determines granting the license is not inconsistent with  
25 public safety, the board shall conduct a thorough review of the nature  
26 of the crime, conviction, circumstances and evidence of rehabilitation  
27 of the owner in accordance with article twenty-three-A of the correction  
28 law, and shall evaluate the suitability of the owner or licensee to be  
29 issued a license based on the evidence found through the review. In  
30 determining which offenses are substantially related to the functions or  
31 duties of owning and operating a business, the board shall include, but  
32 not be limited to, the following:

33 (i) a felony conviction within the past five years involving fraud,  
34 money laundering, forgery or other unlawful conduct related to owning  
35 and operating a business; and

36 (ii) a felony conviction within the past five years for hiring,  
37 employing, or using a minor in transporting, carrying, selling, giving  
38 away, preparing for sale, or peddling, any controlled substance to a  
39 minor; or selling, offering to sell, furnishing, offering to furnish,  
40 administering, or giving any controlled substance to a minor.

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

42 (c) A partnership or a corporation, unless each member of the partner-  
43 ship, or each of the principal officers and directors of the corpo-  
44 ration, is a citizen of the United States or a person lawfully admitted  
45 for permanent residence in the United States, not less than twenty-one  
46 years of age; provided however that a corporation which otherwise  
47 conforms to the requirements of this section and chapter may be licensed  
48 if each of its principal officers and more than one-half of its direc-  
49 tors are citizens of the United States or persons lawfully admitted for  
50 permanent residence in the United States; and provided further that a  
51 corporation organized under the not-for-profit corporation law or the  
52 education law which otherwise conforms to the requirements of this  
53 section and chapter may be licensed if each of its principal officers  
54 and directors are not less than twenty-one years of age; and provided,  
55 further, that a corporation organized under the not-for-profit corpo-  
56 ration law or the education law and located on the premises of a college

1 as defined by section two of the education law which otherwise conforms  
2 to the requirements of this section and chapter may be licensed if each  
3 of its principal officers and each of its directors are not less than  
4 twenty-one years of age;

5 (d) A person who shall have had any registration or license issued  
6 under this chapter revoked for cause, until the expiration of one year  
7 from the date of such revocation;

8 (e) A person not registered or licensed under the provisions of this  
9 chapter, who has been convicted of a misdemeanor or felony in violation  
10 of this chapter, until the expiration of one year from the date of such  
11 conviction; or

12 (f) A corporation or partnership, if any officer and director or any  
13 partner, while not licensed under the provisions of this chapter, has  
14 been convicted of a misdemeanor or felony in violation of this chapter,  
15 or has had a registration or license issued under this chapter revoked  
16 for cause, until the expiration of up to one year from the date of such  
17 conviction or revocation as determined by the board.

18 2. Except as may otherwise be provided for in regulation, it shall be  
19 unlawful for any chief of police, police officer or subordinate of any  
20 police department in the state, to be either directly or indirectly  
21 interested in the cultivation, processing, distribution, or sale of  
22 cannabis products or to offer for sale, or recommend to any registered  
23 organization or licensee any cannabis products. A person may not be  
24 denied any registration or license granted under the provisions of this  
25 chapter solely on the grounds of being the spouse or domestic partner of  
26 a public servant described in this section. The solicitation or recom-  
27 mendation made to any registered organization or licensee, to purchase  
28 any cannabis products by any police official or subordinate as hereina-  
29 bove described, shall be presumptive evidence of the interest of such  
30 official or subordinate in the cultivation, processing, distribution, or  
31 sale of cannabis products.

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

36 § 138. Access to criminal history information through the division of  
37 criminal justice services. In connection with the administration of  
38 this chapter, the board is authorized to request, receive and review  
39 criminal history information through the division of criminal justice  
40 services with respect to any person seeking a registration, license,  
41 permit or authorization to cultivate, process, distribute or sell  
42 medical cannabis, adult-use cannabis, cannabinoid hemp or hemp extract.  
43 At the board's request, each person, member, principal and/or officer of  
44 the applicant shall submit to the board his or her fingerprints in such  
45 form and in such manner as specified by the division, for the purpose of  
46 conducting a criminal history search identifying criminal convictions  
47 and pending criminal charges and returning a report thereon in accord-  
48 ance with the procedures and requirements established by the division  
49 pursuant to the provisions of article thirty-five of the executive law,  
50 which shall include the payment of the reasonable prescribed processing  
51 fees for the cost of the division's full search and retain procedures  
52 and a national criminal history record check. The board, or their desig-  
53 nee, shall submit such fingerprints and the processing fee to the divi-  
54 sion. The division shall forward to the board a report with respect to  
55 the applicant's previous criminal history, if any, or a statement that  
56 the applicant has no previous criminal history according to its files.

1 Fingerprints submitted to the division pursuant to this subdivision may  
2 also be submitted to the federal bureau of investigation for a national  
3 criminal history record check. If additional copies of fingerprints are  
4 required, the applicant shall furnish them upon request. Upon receipt of  
5 such criminal history information, the board shall provide such appli-  
6 cant with a copy of such criminal history information, together with a  
7 copy of article twenty-three-A of the correction law, and inform such  
8 applicant of his or her right to seek correction of any incorrect infor-  
9 mation contained in such criminal history information pursuant to regu-  
10 lations and procedures established by the division of criminal justice  
11 services.

12 § 138-a. Injunction for unlawful manufacturing, sale, or distribution  
13 of cannabis. The office of cannabis management shall have the authority  
14 to request an injunction against any person who is unlawfully cultivat-  
15 ing, processing, distributing or selling cannabis in this state without  
16 obtaining the appropriate registration, license, or permit therefor, in  
17 accordance with this chapter and any applicable state law.

18 § 139. Severability. If any provision of this chapter or application  
19 thereof to any person or circumstances is held invalid, such invalidity  
20 shall not affect other provisions or applications of this chapter that  
21 can be given effect without the invalid provision or application, and to  
22 this end the provisions of this chapter are declared severable.

23 § 3. Section 3302 of the public health law, as added by chapter 878 of  
24 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and  
25 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 22, 23, 24, 25,  
26 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,  
27 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39  
28 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of  
29 subdivision 20, the opening paragraph of subdivision 22 and subdivision  
30 29 as amended by chapter 163 of the laws of 1973, subdivision 21 as  
31 amended by chapter 1 of the laws of 2020, subdivision 31 as amended by  
32 section 4 of part A of chapter 58 of the laws of 2004, subdivision 41 as  
33 added by section 6 of part A of chapter 447 of the laws of 2012, and  
34 subdivisions 42 and 43 as added by section 13 of part D of chapter 60 of  
35 the laws of 2014, is amended to read as follows:

36 § 3302. Definitions of terms of general use in this article. Except  
37 where different meanings are expressly specified in subsequent  
38 provisions of this article, the following terms have the following mean-  
39 ings:

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

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

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

53 4. ~~["Concentrated Cannabis" means~~  
54 ~~(a) the separated resin, whether crude or purified, obtained from a~~  
55 ~~plant of the genus Cannabis; or~~

1 ~~(b) a material, preparation, mixture, compound or other substance~~  
2 ~~which contains more than two and one-half percent by weight of delta-9~~  
3 ~~tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering~~  
4 ~~system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) mono-~~  
5 ~~terpene numbering system.~~

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

8 [~~6-~~] 5. "Commissioner" means commissioner of health of the state of  
9 New York.

10 [~~7-~~] 6. "Deliver" or "delivery" means the actual, constructive or  
11 attempted transfer from one person to another of a controlled substance,  
12 whether or not there is an agency relationship.

13 [~~8-~~] 7. "Department" means the department of health of the state of  
14 New York.

15 [~~9-~~] 8. "Dispense" means to deliver a controlled substance to an ulti-  
16 mate user or research subject by lawful means, including by means of the  
17 internet, and includes the packaging, labeling, or compounding necessary  
18 to prepare the substance for such delivery.

19 [~~10-~~] 9. "Distribute" means to deliver a controlled substance, includ-  
20 ing by means of the internet, other than by administering or dispensing.

21 [~~11-~~] 10. "Distributor" means a person who distributes a controlled  
22 substance.

23 [~~12-~~] 11. "Diversion" means manufacture, possession, delivery or use  
24 of a controlled substance by a person or in a manner not specifically  
25 authorized by law.

26 [~~13-~~] 12. "Drug" means

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

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

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

35 [~~14-~~] 13. "Federal agency" means the Drug Enforcement Administration,  
36 United States Department of Justice, or its successor agency.

37 [~~15-~~] 14. "Federal controlled substances act" means the Comprehensive  
38 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and  
39 any act or acts amendatory or supplemental thereto or regulations  
40 promulgated thereunder.

41 [~~16-~~] 15. "Federal registration number" means such number assigned by  
42 the Federal agency to any person authorized to manufacture, distribute,  
43 sell, dispense or administer controlled substances.

44 [~~17-~~] 16. "Habitual user" means any person who is, or by reason of  
45 repeated use of any controlled substance for non-legitimate or unlawful  
46 use is in danger of becoming, dependent upon such substance.

47 [~~18-~~] 17. "Institutional dispenser" means a hospital, veterinary  
48 hospital, clinic, dispensary, maternity home, nursing home, mental  
49 hospital or similar facility approved and certified by the department as  
50 authorized to obtain controlled substances by distribution and to  
51 dispense and administer such substances pursuant to the order of a prac-  
52 titioner.

53 [~~19-~~] 18. "License" means a written authorization issued by the  
54 department or the New York state department of education permitting  
55 persons to engage in a specified activity with respect to controlled  
56 substances.

1     ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-  
2 gation, compounding, cultivation, conversion or processing of a  
3 controlled substance, either directly or indirectly or by extraction  
4 from substances of natural origin, or independently by means of chemical  
5 synthesis, or by a combination of extraction and chemical synthesis, and  
6 includes any packaging or repackaging of the substance or labeling or  
7 relabeling of its container, except that this term does not include the  
8 preparation, compounding, packaging or labeling of a controlled  
9 substance:

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

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

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

18     ~~[21. "Marihuana" means all parts of the plant of the genus Cannabis,~~  
19 ~~whether growing or not; the seeds thereof; the resin extracted from any~~  
20 ~~part of the plant; and every compound, manufacture, salt, derivative,~~  
21 ~~mixture, or preparation of the plant, its seeds or resin. The term~~  
22 ~~"marihuana" shall not include:~~

23     ~~(a) the mature stalks of the plant, fiber produced from the stalks,~~  
24 ~~oil or cake made from the seeds of the plant, any other compound, manu-~~  
25 ~~facture, salt, derivative, mixture, or preparation of the mature stalks~~  
26 ~~(except the resin extracted therefrom), fiber, oil, or cake, or the~~  
27 ~~sterilized seed of the plant which is incapable of germination;~~

28     ~~(b) hemp, as defined in subdivision one of section five hundred five~~  
29 ~~of the agriculture and markets law;~~

30     ~~(c) cannabinoid hemp as defined in subdivision two of section thirty-~~  
31 ~~three hundred ninety eight of this chapter; or~~

32     ~~(d) hemp extract as defined in subdivision five of section thirty-~~  
33 ~~three hundred ninety eight of this chapter.~~

34     ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced  
35 directly or indirectly by extraction from substances of vegetable  
36 origin, or independently by means of chemical synthesis, or by a combi-  
37 nation of extraction and chemical synthesis:

38     (a) opium and opiate, and any salt, compound, derivative, or prepara-  
39 tion of opium or opiate;

40     (b) any salt, compound, isomer, derivative, or preparation thereof  
41 which is chemically equivalent or identical with any of the substances  
42 referred to in ~~[subdivision]~~ paragraph (a) of this subdivision, but not  
43 including the isoquinoline alkaloids of opium;

44     (c) opium poppy and poppy straw.

45     ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or  
46 addiction-sustaining liability similar to morphine or being capable of  
47 conversion into a drug having addiction-forming or addiction-sustaining  
48 liability. It does not include, unless specifically designated as  
49 controlled under section ~~[3306]~~ thirty-three hundred six of this ~~[arti-~~  
50 ~~cle]~~ title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and  
51 its salts (dextromethorphan). It does include its racemic and levorota-  
52 tory forms.

53     ~~[24.]~~ 22. "Opium poppy" means the plant of the species *Papaver*  
54 *somniferum* L., except its seeds.

1     ~~[25-]~~ 23. "Person" means individual, institution, corporation, govern-  
2 ment or governmental subdivision or agency, business trust, estate,  
3 trust, partnership or association, or any other legal entity.

4     ~~[26-]~~ 24. "Pharmacist" means any person licensed by the state depart-  
5 ment of education to practice pharmacy.

6     ~~[27-]~~ 25. "Pharmacy" means any place registered as such by the New  
7 York state board of pharmacy and registered with the Federal agency  
8 pursuant to the federal controlled substances act.

9     ~~[28-]~~ 26. "Poppy straw" means all parts, except the seeds, of the  
10 opium poppy, after mowing.

11    ~~[29-]~~ 27. "Practitioner" means:  
12     A physician, dentist, podiatrist, veterinarian, scientific investi-  
13 gator, or other person licensed, or otherwise permitted to dispense,  
14 administer or conduct research with respect to a controlled substance in  
15 the course of a licensed professional practice or research licensed  
16 pursuant to this article. Such person shall be deemed a "practitioner"  
17 only as to such substances, or conduct relating to such substances, as  
18 is permitted by his license, permit or otherwise permitted by law.

19    ~~[30-]~~ 28. "Prescribe" means a direction or authorization, by  
20 prescription, permitting an ultimate user lawfully to obtain controlled  
21 substances from any person authorized by law to dispense such  
22 substances.

23    ~~[31-]~~ 29. "Prescription" shall mean an official New York state  
24 prescription, an electronic prescription, an oral prescription~~[7]~~ or  
25 out-of-state prescription~~[7]~~ or any one.

26    ~~[32-]~~ 30. "Sell" means to sell, exchange, give or dispose of to anoth-  
27 er, or offer or agree to do the same.

28    ~~[33-]~~ 31. "Ultimate user" means a person who lawfully obtains and  
29 possesses a controlled substance for his own use or the use by a member  
30 of his household or for an animal owned by him or in his custody. It  
31 shall also mean and include a person designated, by a practitioner on a  
32 prescription, to obtain such substance on behalf of the patient for whom  
33 such substance is intended.

34    ~~[34-]~~ 32. "Internet" means collectively computer and telecommuni-  
35 cations facilities which comprise the worldwide network of networks that  
36 employ a set of industry standards and protocols, or any predecessor or  
37 successor protocol to such protocol, to exchange information of all  
38 kinds. "Internet," as used in this article, also includes other  
39 networks, whether private or public, used to transmit information by  
40 electronic means.

41    ~~[35-]~~ 33. "By means of the internet" means any sale, delivery,  
42 distribution, or dispensing of a controlled substance that uses the  
43 internet, is initiated by use of the internet or causes the internet to  
44 be used.

45    ~~[36-]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person  
46 in the United States that sells, delivers or dispenses, or offers to  
47 sell, deliver, or dispense, a controlled substance by means of the  
48 internet.

49    ~~[37-]~~ 35. "Electronic prescription" means a prescription issued with  
50 an electronic signature and transmitted by electronic means in accord-  
51 ance with regulations of the commissioner and the commissioner of educa-  
52 tion and consistent with federal requirements. A prescription generated  
53 on an electronic system that is printed out or transmitted via facsimile  
54 is not considered an electronic prescription and must be manually  
55 signed.

1     ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-  
2 trical, digital, magnetic, wireless, optical, electromagnetic or similar  
3 capabilities. "Electronic" shall not include facsimile.

4     ~~[39-]~~ 37. "Electronic record" means a paperless record that is  
5 created, generated, transmitted, communicated, received or stored by  
6 means of electronic equipment and includes the preservation, retrieval,  
7 use and disposition in accordance with regulations of the commissioner  
8 and the commissioner of education and in compliance with federal law and  
9 regulations.

10    ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or  
11 process, attached to or logically associated with an electronic record  
12 and executed or adopted by a person with the intent to sign the record,  
13 in accordance with regulations of the commissioner and the commissioner  
14 of education.

15    ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"  
16 means the prescription monitoring program registry established pursuant  
17 to section thirty-three hundred forty-three-a of this article.

18    ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-  
19 ing, pooling, reconstituting, or otherwise altering of a drug or bulk  
20 drug substance to create a drug with respect to an outsourcing facility  
21 under section 503B of the federal Food, Drug and Cosmetic Act and  
22 further defined in this section.

23    ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

24    (a) is engaged in the compounding of sterile drugs as defined in  
25 section sixty-eight hundred two of the education law;

26    (b) is currently registered as an outsourcing facility pursuant to  
27 article one hundred thirty-seven of the education law; and

28    (c) complies with all applicable requirements of federal and state  
29 law, including the Federal Food, Drug and Cosmetic Act.

30    Notwithstanding any other provision of law to the contrary, when an  
31 outsourcing facility distributes or dispenses any drug to any person  
32 pursuant to a prescription, such outsourcing facility shall be deemed to  
33 be providing pharmacy services and shall be subject to all laws, rules  
34 and regulations governing pharmacies and pharmacy services.

35    § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,  
36 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of  
37 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,  
38 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of  
39 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of  
40 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the  
41 laws of 2006, are amended to read as follows:

42    (13) ~~[Marihuana-~~

43    ~~(14)]~~ Mescaline.

44    ~~[(15)]~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-  
45 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo(b,d) pyran.

46    ~~[(16)]~~ (15) Peyote. Meaning all parts of the plant presently classi-  
47 fied botanically as *Lophophora williamsii* Lemaire, whether growing or  
48 not, the seeds thereof, any extract from any part of such plant, and  
49 every compound, manufacture, salts, derivative, mixture, or preparation  
50 of such plant, its seeds or extracts.

51    ~~[(17)]~~ (16) N-ethyl-3-piperidyl benzilate.

52    ~~[(18)]~~ (17) N-methyl-3-piperidyl benzilate.

53    ~~[(19)]~~ (18) Psilocybin.

54    ~~[(20)]~~ (19) Psilocyn.

55    ~~[(21)]~~ (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not  
56 derived from the cannabis plant that are equivalents of the substances



1 contained in the plant, or in the resinous extractives of cannabis, sp.  
2 and/or synthetic substances, derivatives, and their isomers with similar  
3 chemical structure and pharmacological activity such as the following:

4 [\Delta] delta 1 cis or trans tetrahydrocannabinol, and their optical  
5 isomers

6 [\Delta] delta 6 cis or trans tetrahydrocannabinol, and their optical  
7 isomers

8 [\Delta] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical  
9 isomers (since nomenclature of these substances is not internationally  
10 standardized, compounds of these structures, regardless of numerical  
11 designation of atomic positions covered). Any Federal Food and Drug  
12 Administration approved product containing tetrahydrocannabinol shall  
13 not be considered a synthetic tetrahydrocannabinol.

14 ~~[(22)]~~ (21) Ethylamine analog of phencyclidine. Some trade or other  
15 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylam-  
16 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

17 ~~[(23)]~~ (22) Pyrrolidine analog of phencyclidine. Some trade or other  
18 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

19 ~~[(24)]~~ (23) Thiophene analog of phencyclidine. Some trade or other  
20 names: 1-(1-(2-thienyl)-cyclohexyl)-piperidine, 2-thienylanalog of  
21 phencyclidine, TPCP, TCP.

22 ~~[(25)]~~ (24) 3,4-methylenedioxyamphetamine (MDMA).

23 ~~[(26)]~~ (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as  
24 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,  
25 MDE, MDEA.

26 ~~[(27)]~~ (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as  
27 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and  
28 N-hydroxy MDA.

29 ~~[(28)]~~ (27) 1-(1-(2-thienyl) cyclohexyl) pyrrolidine. Some other  
30 names: TCPY.

31 ~~[(29)]~~ (28) Alpha-ethyltryptamine. Some trade or other names:  
32 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;  
33 3-(2-aminobutyl) indole; Alpha-ET or AET.

34 ~~[(30)]~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other  
35 names: DOET.

36 ~~[(31)]~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other  
37 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl  
38 DOB; 2C-B, Nexus.

39 ~~[(32)]~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its  
40 optical isomers, salts and salts of isomers.

41 § 5. Subdivision 8 of section 1399-n of the public health law, as  
42 amended by chapter 131 of the laws of 2019, is amended to read as  
43 follows:

44 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or  
45 any other matter or substance which contains tobacco or ~~[marihuana]~~  
46 cannabis as defined in section ~~[thirty-three hundred two of this~~  
47 ~~chapter]~~ 222.00 of the penal law, or cannabinoid hemp as defined in  
48 section three of the cannabis law.

49 § 5-a. Section 1399-q of the public health law, as amended by chapter  
50 335 of the laws of 2017, is amended to read as follows:

51 § 1399-q. Smoking and vaping restrictions inapplicable. 1. This  
52 article shall not apply to:

53 ~~[1-]~~ (a) Private homes~~[7]~~ and private residences ~~[and private~~  
54 ~~automobiles];~~

55 ~~[2-]~~ (b) Private automobiles;

56 (c) A hotel or motel room rented to one or more guests;

1     ~~[3-]~~ (d) Retail tobacco businesses;

2     ~~[4-]~~ (e) Membership associations; provided, however, that smoking and  
3 vaping shall only be allowed in membership associations in which all of  
4 the duties with respect to the operation of such association, including,  
5 but not limited to, the preparation of food and beverages, the service  
6 of food and beverages, reception and secretarial work, and the security  
7 services of the membership association are performed by members of such  
8 membership association who do not receive compensation of any kind from  
9 the membership association or any other entity for the performance of  
10 such duties;

11     ~~[5-]~~ (f) Cigar bars that, in the calendar year ending December thir-  
12 ty-first, two thousand two, generated ten percent or more of its total  
13 annual gross income from the on-site sale of tobacco products and the  
14 rental of on-site humidors, not including any sales from vending  
15 machines, and is registered with the appropriate enforcement officer, as  
16 defined in subdivision one of section thirteen hundred ninety-nine-t of  
17 this article. Such registration shall remain in effect for one year and  
18 shall be renewable only if: (a) in the preceding calendar year, the  
19 cigar bar generated ten percent or more of its total annual gross income  
20 from the on-site sale of tobacco products and the rental of on-site  
21 humidors, and (b) the cigar bar has not expanded its size or changed its  
22 location from its size or location since December thirty-first, two  
23 thousand two;

24     ~~[6-]~~ (g) Outdoor dining areas of food service establishments with no  
25 roof or other ceiling enclosure; provided, however, that smoking and  
26 vaping may be permitted in a contiguous area designated for smoking and  
27 vaping so long as such area: (a) constitutes no more than twenty-five  
28 percent of the outdoor seating capacity of such food service establish-  
29 ment, (b) is at least three feet away from the outdoor area of such food  
30 service establishment not designated for smoking and vaping, and (c) is  
31 clearly designated with written signage as a smoking and vaping area;

32     ~~[7-]~~ (h) Enclosed rooms in food service establishments, bars, catering  
33 halls, convention halls, hotel and motel conference rooms, and other  
34 such similar facilities during the time such enclosed areas or rooms are  
35 being used exclusively for functions where the public is invited for the  
36 primary purpose of promoting and sampling tobacco products or electronic  
37 cigarettes, and the service of food and drink is incidental to such  
38 purpose, provided that the sponsor or organizer gives notice in any  
39 promotional material or advertisements that smoking and vaping will not  
40 be restricted, and prominently posts notice at the entrance of the  
41 facility and has provided notice of such function to the appropriate  
42 enforcement officer, as defined in subdivision one of section thirteen  
43 hundred ninety-nine-t of this article, at least two weeks prior to such  
44 function. The enforcement officer shall keep a record of all tobacco  
45 sampling events, and such record shall be made available for public  
46 inspection. No such facility shall permit smoking and vaping under this  
47 subdivision for more than two days in any calendar year; ~~and~~

48     ~~8-~~ (i) Retail electronic cigarette stores, provided however, that  
49 such stores may only permit the use of electronic cigarettes~~[-]~~; ~~and~~

50     (j) Adult-use on-site consumption premises authorized pursuant to  
51 article four of the cannabis law, provided however, that such locations  
52 may only permit the smoking or vaping of cannabis.

53     2. The restrictions of this article on the smoking or vaping of canna-  
54 bis shall continue to apply to those locations identified in paragraphs  
55 (b), (d), (f), (g), (h) and (i) of subdivision one of this section.

56     § 6. Title 5-A of article 33 of the public health law is REPEALED.

1 § 6-a. Article 33-B of the public health law is REPEALED.

2 § 6-b. The commissioner of health and the cannabis control board shall  
3 work in conjunction to expeditiously transfer the oversight of the  
4 medical use of cannabis to ensure continuity of care, and the responsi-  
5 bility for regulation of cannabinoid hemp and hemp extract, from the  
6 department of health to the office of cannabis management. For the  
7 purposes of this section continuity of care shall include, but not be  
8 limited to, a certified patient's ability to engage in the lawful  
9 medical use of cannabis, and a registered organization's ability to  
10 conduct its lawful operations.

11 § 6-c. Section 3382 of the public health law is REPEALED.

12 § 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs  
13 (a) and (b) of subdivision 11 of section 1311 of the civil practice law  
14 and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added  
15 by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdi-  
16 vision 11 as amended by section 47 of part A1 of chapter 56 of the laws  
17 of 2010, are amended to read as follows:

18 (d) In a forfeiture action commenced by a claiming authority against a  
19 defendant, the following rebuttable presumption shall apply: all curren-  
20 cy or negotiable instruments payable to the bearer shall be presumed to  
21 be the proceeds of a pre-conviction forfeiture crime when such currency  
22 or negotiable instruments are (i) found in close proximity to a  
23 controlled substance unlawfully possessed by the defendant in an amount  
24 sufficient to constitute a violation of section 220.18 or 220.21 of the  
25 penal law, or (ii) found in close proximity to any quantity of a  
26 controlled substance [~~or marijuana~~] unlawfully possessed by such defend-  
27 ant in a room, other than a public place, under circumstances evincing  
28 an intent to unlawfully mix, compound, distribute, package or otherwise  
29 prepare for sale such controlled substance [~~or marijuana~~].

30 3-a. Conviction of a person in a criminal action upon an accusatory  
31 instrument which includes one or more of the felonies specified in  
32 subdivision four-b of section thirteen hundred ten of this article, of  
33 any felony other than such felonies, shall not preclude a defendant, in  
34 any subsequent proceeding under this article where that conviction is at  
35 issue, from adducing evidence that the conduct underlying the conviction  
36 would not establish the elements of any of the felonies specified in  
37 such subdivision other than the one to which the criminal defendant pled  
38 guilty. If the defendant does adduce such evidence, the burden shall be  
39 upon the claiming authority to prove, by clear and convincing evidence,  
40 that the conduct underlying the criminal conviction would establish the  
41 elements of the felony specified in such subdivision. Nothing contained  
42 in this subdivision shall affect the validity of a settlement of any  
43 forfeiture action negotiated between the claiming authority and a crimi-  
44 nal defendant contemporaneously with the taking of a plea of guilty in a  
45 criminal action to any felony defined in article two hundred twenty [~~or~~  
46 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to  
47 commit the same.

48 (a) Any stipulation or settlement agreement between the parties to a  
49 forfeiture action shall be filed with the clerk of the court in which  
50 the forfeiture action is pending. No stipulation or settlement agreement  
51 shall be accepted for filing unless it is accompanied by an affidavit  
52 from the claiming authority that written notice of the stipulation or  
53 settlement agreement, including the terms of such, has been given to the  
54 office of victim services, the state division of criminal justice  
55 services [~~and in the case of a forfeiture based on a felony defined in~~

1 ~~article two hundred twenty or section 221.30 or 221.55 of the penal law,~~  
 2 ~~to the state division of substance abuse services].~~

3 (b) No judgment or order of forfeiture shall be accepted for filing  
 4 unless it is accompanied by an affidavit from the claiming authority  
 5 that written notice of judgment or order, including the terms of such,  
 6 has been given to the office of victim services, the state division of  
 7 criminal justice services [~~and in the case of a forfeiture based on a~~  
 8 ~~felony defined in article two hundred twenty or section 221.30 or 221.55~~  
 9 ~~of the penal law, to the state division of substance abuse services].~~

10 § 8. Subdivision 1 of section 3397-b of the public health law, as  
 11 added by chapter 810 of the laws of 1980, is amended to read as follows:

12 1. [~~"Marijuana"~~] "Cannabis" means [~~marijuana~~] cannabis as defined in  
 13 [~~section thirty-three hundred two of this chapter~~] section 222.00 of the  
 14 penal law and shall also include tetrahydrocannabinols or a chemical  
 15 derivative of tetrahydrocannabinol.

16 § 9. Section 114-a of the vehicle and traffic law, as added by chapter  
 17 163 of the laws of 1973, is amended to read as follows:

18 § 114-a. Drug. The term "drug" when used in this chapter, means and  
 19 includes any substance listed in section thirty-three hundred six of the  
 20 public health law and cannabis and concentrated cannabis as defined in  
 21 section 222.00 of the penal law.

22 § 9-a. Paragraphs b and c of subdivision 2 of section 201-d of the  
 23 labor law, as added by chapter 776 of the laws of 1992, are amended to  
 24 read as follows:

25 b. an individual's legal use of consumable products, including canna-  
 26 bis in accordance with state law, prior to the beginning or after the  
 27 conclusion of the employee's work hours, and off of the employer's prem-  
 28 ises and without use of the employer's equipment or other property;

29 c. an individual's legal recreational activities, including cannabis  
 30 in accordance with state law, outside work hours, off of the employer's  
 31 premises and without use of the employer's equipment or other property;  
 32 or

33 § 9-b. Section 201-d of the labor law, as amended by chapter 778 of  
 34 the laws of 1992, is amended by adding a new subdivision 4-a, to read as  
 35 follows:

36 4-a. Notwithstanding the provisions of subdivision three or four of  
 37 this section, an employer shall not be in violation of this section  
 38 where the employer takes action related to the use of cannabis based on  
 39 the following:

40 (i) the employer's actions were required by state or federal statute,  
 41 regulation, ordinance, or other state or federal governmental mandate;

42 (ii) the employee is impaired by the use of cannabis, meaning the  
 43 employee manifests specific articulable symptoms while working that  
 44 decrease or lessen the employee's performance of the duties or tasks of  
 45 the employee's job position, or such specific articulable symptoms  
 46 interfere with an employer's obligation to provide a safe and healthy  
 47 work place, free from recognized hazards, as required by state and  
 48 federal occupational safety and health law; or

49 (iii) the employer's actions would require such employer to commit any  
 50 act that would cause the employer to be in violation of federal law or  
 51 would result in the loss of a federal contract or federal funding.

52 § 10. Subdivision 9 of section 220.00 of the penal law, as amended by  
 53 chapter 664 of the laws of 1985, is amended to read as follows:

54 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~  
 55 ~~1-(d)] paragraphs (5), (17), (18), (19), (20), (21) and (22).~~

1 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-  
 2 three hundred six of the public health law.

3 § 10-a. Subdivision 5 of section 220.00 of the penal law, as amended  
 4 by chapter 537 of the laws of 1998, is amended to read as follows:

5 5. "Controlled substance" means any substance listed in schedule I,  
 6 II, III, IV or V of section thirty-three hundred six of the public  
 7 health law [~~other than marihuana, but including concentrated cannabis as~~  
 8 ~~defined in paragraph (a) of subdivision four of section thirty-three~~  
 9 ~~hundred two of such law~~].

10 § 11. Subdivision 4 of section 220.06 of the penal law is REPEALED.

11 § 12. Subdivision 10 of section 220.09 of the penal law is REPEALED.

12 § 13. Subdivision 3 of section 220.34 of the penal law is REPEALED.

13 § 14. Subdivision 6 of section 220.00 of the penal law is REPEALED.

14 § 15. Article 221 of the penal law is REPEALED.

15 § 16. The penal law is amended by adding a new article 222 to read as  
 16 follows:

17 ARTICLE 222

18 CANNABIS

19 Section 222.00 Cannabis; definitions.

20 222.05 Personal use of cannabis.

21 222.10 Restrictions on cannabis use.

22 222.15 Personal cultivation and home possession of cannabis.

23 222.20 Licensing of cannabis production and distribution;  
 24 defense.

25 222.25 Unlawful possession of cannabis.

26 222.30 Criminal possession of cannabis in the third degree.

27 222.35 Criminal possession of cannabis in the second degree.

28 222.40 Criminal possession of cannabis in the first degree.

29 222.45 Unlawful sale of cannabis.

30 222.50 Criminal sale of cannabis in the third degree.

31 222.55 Criminal sale of cannabis in the second degree.

32 222.60 Criminal sale of cannabis in the first degree.

33 222.65 Aggravated criminal sale of cannabis.

34 § 222.00 Cannabis; definitions.

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

47 2. "Concentrated cannabis" means:

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

50 (b) a material, preparation, mixture, compound or other substance  
 51 which contains more than three percent by weight of delta-9 tetrahydro-  
 52 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or  
 53 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene  
 54 numbering system.

55 3. For the purposes of this article, "sell" shall mean to sell,  
 56 exchange or dispose of for compensation. "Sell" shall not include the

1 transfer of cannabis or concentrated cannabis between persons twenty-one  
2 years of age or older without compensation in the quantities authorized  
3 in paragraph (b) of subdivision one of section 222.05 of this article.

4 4. For the purposes of this article, "smoking" shall have the same  
5 meaning as that term is defined in section three of the cannabis law.  
6 § 222.05 Personal use of cannabis.

7 Notwithstanding any other provision of law to the contrary:

8 1. The following acts are lawful for persons twenty-one years of age  
9 or older: (a) possessing, displaying, purchasing, obtaining, or trans-  
10 porting up to three ounces of cannabis and up to twenty-four grams of  
11 concentrated cannabis;

12 (b) transferring, without compensation, to a person twenty-one years  
13 of age or older, up to three ounces of cannabis and up to twenty-four  
14 grams of concentrated cannabis;

15 (c) using, smoking, ingesting, or consuming cannabis or concentrated  
16 cannabis unless otherwise prohibited by state law;

17 (d) possessing, using, displaying, purchasing, obtaining, manufactur-  
18 ing, transporting or giving to any person twenty-one years of age or  
19 older cannabis paraphernalia or concentrated cannabis paraphernalia;

20 (e) planting, cultivating, harvesting, drying, processing or possess-  
21 ing cultivated cannabis in accordance with section 222.15 of this arti-  
22 cle; and

23 (f) assisting another person who is twenty-one years of age or older,  
24 or allowing property to be used, in any of the acts described in para-  
25 graphs (a) through (e) of this subdivision.

26 2. Cannabis, concentrated cannabis, cannabis paraphernalia or concen-  
27 trated cannabis paraphernalia involved in any way with conduct deemed  
28 lawful by this section are not contraband nor subject to seizure or  
29 forfeiture of assets under article four hundred eighty of this chapter,  
30 section thirteen hundred eleven of the civil practice law and rules, or  
31 other applicable law, and no conduct deemed lawful by this section shall  
32 constitute the basis for approach, search, seizure, arrest or detention.

33 3. Except as provided in subdivision four of this section, in any  
34 criminal proceeding including proceedings pursuant to section 710.20 of  
35 the criminal procedure law, no finding or determination of reasonable  
36 cause to believe a crime has been committed shall be based solely on  
37 evidence of the following facts and circumstances, either individually  
38 or in combination with each other:

39 (a) the odor of cannabis;

40 (b) the odor of burnt cannabis;

41 (c) the possession of or the suspicion of possession of cannabis or  
42 concentrated cannabis in the amounts authorized in this article;

43 (d) the possession of multiple containers of cannabis without evidence  
44 of concentrated cannabis in the amounts authorized in this article;

45 (e) the presence of cash or currency in proximity to cannabis or  
46 concentrated cannabis; or

47 (f) the planting, cultivating, harvesting, drying, processing or  
48 possessing cultivated cannabis in accordance with section 222.15 of this  
49 article.

50 4. Paragraph (b) of subdivision three of this section shall not apply  
51 when a law enforcement officer is investigating whether a person is  
52 operating a motor vehicle, vessel or snowmobile while impaired by drugs  
53 or the combined influence of drugs or of alcohol and any drug or drugs  
54 in violation of subdivision four or subdivision four-a of section eleven  
55 hundred ninety-two of the vehicle and traffic law, or paragraph (e) of  
56 subdivision two of section forty-nine-a of the navigation law, or para-

1 graph (d) of subdivision one of section 25.24 of the parks, recreation  
2 and historic preservation law. During such investigations, the odor of  
3 burnt cannabis shall not provide probable cause to search any area of a  
4 vehicle that is not readily accessible to the driver and reasonably  
5 likely to contain evidence relevant to the driver's condition.

6 § 222.10 Restrictions on cannabis use.

7 Unless otherwise authorized by law or regulation, no person shall:

8 1. smoke or vape cannabis in a location where smoking or vaping canna-  
9 bis is prohibited pursuant to article thirteen-E of the public health  
10 law; or

11 2. smoke, vape or ingest cannabis or concentrated cannabis in or upon  
12 the grounds of a school, as defined in subdivision ten of section eleven  
13 hundred twenty-five of the education law or in or on a school bus, as  
14 defined in section one hundred forty-two of the vehicle and traffic law;  
15 provided, however, provisions of this subdivision shall not apply to  
16 acts that are in compliance with article three of the cannabis law.

17 Notwithstanding any other section of law, violations of restrictions  
18 on cannabis use are subject to a civil penalty not exceeding twenty-five  
19 dollars or an amount of community service not exceeding twenty hours.

20 § 222.15 Personal cultivation and home possession of cannabis.

21 1. Except as provided for in section forty-one of the cannabis law,  
22 and unless otherwise authorized by law or regulation, no person may:

23 (a) plant, cultivate, harvest, dry, process or possess more than three  
24 mature cannabis plants and three immature cannabis plants at any one  
25 time; or

26 (b) plant, cultivate, harvest, dry, process or possess, within his or  
27 her private residence, or on the grounds of his or her private resi-  
28 dence, more than three mature cannabis plants and three immature canna-  
29 bis plants at any one time; or

30 (c) being under the age of twenty-one, plant, cultivate, harvest, dry,  
31 process or possess cannabis plants.

32 2. No more than six mature and six immature cannabis plants may be  
33 cultivated, harvested, dried, or possessed within any private residence,  
34 or on the grounds of a person's private residence.

35 3. The personal cultivation of cannabis shall only be permitted with-  
36 in, or on the grounds of, a person's private residence.

37 4. Any mature or immature cannabis plant described in paragraph (a) or  
38 (b) of subdivision one of this section, and any cannabis produced by any  
39 such cannabis plant or plants cultivated, harvested, dried, processed or  
40 possessed pursuant to paragraph (a) or (b) of subdivision one of this  
41 section shall, unless otherwise authorized by law or regulation, be  
42 stored within such person's private residence or on the grounds of such  
43 person's private residence. Such person shall take reasonable steps  
44 designed to ensure that such cultivated cannabis is in a secured place  
45 and not accessible to any person under the age of twenty-one.

46 5. Notwithstanding any law to the contrary, a person may lawfully  
47 possess up to five pounds of cannabis in their private residence or on  
48 the grounds of such person's private residence. Such person shall take  
49 reasonable steps designed to ensure that such cannabis is in a secured  
50 place not accessible to any person under the age of twenty-one.

51 6. A county, town, city or village may enact and enforce regulations  
52 to reasonably regulate the actions and conduct set forth in subdivision  
53 one of this section; provided that:

54 (a) a violation of any such a regulation, as approved by such county,  
55 town, city or village enacting the regulation, may constitute no more

1 than an infraction and may be punishable by no more than a discretionary  
2 civil penalty of two hundred dollars or less; and

3 (b) no county, town, city or village may enact or enforce any such  
4 regulation or regulations that may completely or essentially prohibit a  
5 person from engaging in the action or conduct authorized by subdivision  
6 one of this section.

7 A violation of this section, other than paragraph (a) of subdivision  
8 six of this section, may be subject to a civil penalty of up to one  
9 hundred twenty-five dollars per violation.

10 7. The office of cannabis management shall issue regulations for the  
11 home cultivation of cannabis. The office of cannabis management shall  
12 enact, and may enforce, regulations to regulate the actions and conduct  
13 set forth in this section including requirements for, or restrictions  
14 and prohibitions on, the use of any compressed flammable gas solvents  
15 such as propane, butane, or other hexane gases for cannabis processing;  
16 or other forms of home cultivation, manufacturing, or cannabinoid  
17 production and processing, which the office determines poses a danger to  
18 public safety; and to ensure the home cultivation of cannabis is for  
19 personal use by an adult over the age of twenty-one in possession of  
20 cannabis plants, and not utilized for unlicensed commercial or illicit  
21 activity, provided any regulations issued by the office shall not  
22 completely or essentially prohibit a person from engaging in the action  
23 or conduct authorized by this section.

24 8. The office of cannabis management may issue guidance or advisories  
25 for the education and promotion of safe practices for activities and  
26 conduct authorized in subdivision one of this section.

27 9. Subdivisions one through five of this section shall not take effect  
28 until such a time as the office of cannabis management has issued regu-  
29 lations governing the home cultivation of cannabis. The office shall  
30 issue rules and regulations governing the home cultivation of cannabis  
31 by certified patients as defined in section three of the cannabis law,  
32 no later than six months after the effective date of this article and  
33 shall issue rules and regulations governing the home cultivation of  
34 cannabis for cannabis consumers as defined by section three of the  
35 cannabis law no later than eighteen months following the first author-  
36 ized retail sale of adult-use cannabis products to a cannabis consumer.  
37 § 222.20 Licensing of cannabis production and distribution; defense.

38 In any prosecution for an offense involving cannabis under this arti-  
39 cle or an authorized local law, it is a defense that the defendant was  
40 engaged in such activity in compliance with the cannabis law.

41 § 222.25 Unlawful possession of cannabis.

42 A person is guilty of unlawful possession of cannabis when he or she  
43 knowingly and unlawfully possesses cannabis and such cannabis weighs  
44 more than three ounces or concentrated cannabis and such concentrated  
45 cannabis weighs more than twenty-four grams.

46 Unlawful possession of cannabis is a violation punishable by a fine of  
47 not more than one hundred twenty-five dollars.

48 § 222.30 Criminal possession of cannabis in the third degree.

49 A person is guilty of criminal possession of cannabis in the third  
50 degree when he or she knowingly and unlawfully possesses:

- 51 1. cannabis and such cannabis weighs more than sixteen ounces; or
- 52 2. concentrated cannabis and such concentrated cannabis weighs more  
53 than five ounces.

54 Criminal possession of cannabis in the third degree is a class A  
55 misdemeanor.

56 § 222.35 Criminal possession of cannabis in the second degree.



1 A person is guilty of criminal possession of cannabis in the second  
2 degree when he or she knowingly and unlawfully possesses:

- 3 1. cannabis and such cannabis weighs more than five pounds; or
- 4 2. concentrated cannabis and such concentrated cannabis weighs more  
5 than two pounds.

6 Criminal possession of cannabis in the second degree is a class E  
7 felony.

8 § 222.40 Criminal possession of cannabis in the first degree.

9 A person is guilty of criminal possession of cannabis in the first  
10 degree when he or she knowingly and unlawfully possesses:

- 11 1. cannabis and such cannabis weighs more than ten pounds; or
- 12 2. concentrated cannabis and such concentrated cannabis weighs more  
13 than four pounds.

14 Criminal possession of cannabis in the first degree is a class D felo-  
15 ny.

16 § 222.45 Unlawful sale of cannabis.

17 A person is guilty of unlawful sale of cannabis when he or she know-  
18 ingly and unlawfully sells cannabis or concentrated cannabis.

19 Unlawful sale of cannabis is a violation punishable by a fine of not  
20 more than two hundred fifty dollars.

21 § 222.50 Criminal sale of cannabis in the third degree.

22 A person is guilty of criminal sale of cannabis in the third degree  
23 when:

- 24 1. he or she knowingly and unlawfully sells more than three ounces of  
25 cannabis or more than twenty-four grams of concentrated cannabis; or
- 26 2. being twenty-one years of age or older, he or she knowingly and  
27 unlawfully sells or gives, or causes to be given or sold, cannabis or  
28 concentrated cannabis to a person less than twenty-one years of age;  
29 except that in any prosecution under this subdivision, it is a defense  
30 that the defendant was less than three years older than the person under  
31 the age of twenty-one at the time of the offense. This subdivision shall  
32 not apply to designated caregivers, practitioners, employees of a regis-  
33 tered organization or employees of a designated caregiver facility  
34 acting in compliance with article three of the cannabis law.

35 Criminal sale of cannabis in the third degree is a class A misdemea-  
36 nor.

37 § 222.55 Criminal sale of cannabis in the second degree.

38 A person is guilty of criminal sale of cannabis in the second degree  
39 when:

- 40 1. he or she knowingly and unlawfully sells more than sixteen ounces  
41 of cannabis or more than five ounces of concentrated cannabis; or
- 42 2. being twenty-one years of age or older, he or she knowingly and  
43 unlawfully sells or gives, or causes to be given or sold, more than  
44 three ounces of cannabis or more than twenty-four grams of concentrated  
45 cannabis to a person less than eighteen years of age. This subdivision  
46 shall not apply to designated caregivers, practitioners, employees of a  
47 registered organization or employees of a designated caregiver facility  
48 acting in compliance with article three of the cannabis law.

49 Criminal sale of cannabis in the second degree is a class E felony.

50 § 222.60 Criminal sale of cannabis in the first degree.

51 A person is guilty of criminal sale of cannabis in the first degree  
52 when he or she knowingly and unlawfully sells more than five pounds of  
53 cannabis or more than two pounds of concentrated cannabis.

54 Criminal sale of cannabis in the first degree is a class D felony.

55 § 222.65 Aggravated criminal sale of cannabis.

1 A person is guilty of aggravated criminal sale of cannabis when he or  
2 she knowingly and unlawfully sells cannabis or concentrated cannabis  
3 weighing one hundred pounds or more.

4 Aggravated criminal sale of cannabis is a class C felony.

5 § 17. Paragraph (k) of subdivision 3 of section 160.50 of the criminal  
6 procedure law, as amended by chapter 132 of the laws of 2019, subpara-  
7 graphs (iii) and (iv) as amended by chapter 23 of the laws of 2021, is  
8 amended to read as follows:

9 (k) (i) The conviction was for a violation of article two hundred  
10 twenty or section 240.36 of the penal law prior to the effective date of  
11 article two hundred twenty-one of the penal law, and the sole controlled  
12 substance involved was marihuana and the conviction was only for a  
13 misdemeanor and/or violation [~~or violations~~]; or

14 (ii) the conviction is for an offense defined in section 221.05 or  
15 221.10 of the penal law prior to the effective date of [~~the~~] chapter one  
16 hundred thirty-two of the laws of two thousand nineteen [~~that amended~~  
17 ~~this paragraph~~]; or

18 (iii) the conviction is for an offense defined in [~~section~~] former  
19 section 221.05 [~~or~~] 221.10, 221.15, 221.20, 221.35, or 221.40 of the  
20 penal law; or

21 (iv) the conviction was for an offense defined in section 240.37 of  
22 the penal law; or

23 (v) the conviction was for a violation of section 220.03 or 220.06 of  
24 the penal law prior to the effective date of the chapter of the laws of  
25 two thousand twenty-one that amended this paragraph, and the sole  
26 controlled substance involved was concentrated cannabis; or

27 (vi) the conviction was for an offense defined in section 222.10,  
28 222.15, 222.25 or 222.45 of the penal law.

29 No defendant shall be required or permitted to waive eligibility for  
30 sealing or expungement pursuant to this section as part of a plea of  
31 guilty, sentence or any agreement related to a conviction for a  
32 violation of [~~section 221.05~~] section 222.10, 222.15, 222.25 or [~~section~~  
33 ~~221.10~~] 222.45 of the penal law and any such waiver shall be deemed void  
34 and wholly unenforceable.

35 § 18. Paragraph (k) of subdivision 1 of section 440.10 of the criminal  
36 procedure law, as added by chapter 132 of the laws of 2019, is amended  
37 to read as follows:

38 (k) The judgment occurred prior to the effective date of the laws of  
39 two thousand twenty-one that amended this paragraph and is a conviction  
40 for an offense as defined in subparagraphs (i) [~~or~~], (ii), (iii) or (iv)  
41 of paragraph (k) of subdivision three of section 160.50 of this part, in  
42 which case the court shall presume that a conviction by plea for the  
43 aforementioned offenses was not knowing, voluntary and intelligent if it  
44 has severe or ongoing consequences, including but not limited to poten-  
45 tial or actual immigration consequences, and shall presume that a  
46 conviction by verdict for the aforementioned offenses constitutes cruel  
47 and unusual punishment under section five of article one of the state  
48 constitution, based on those consequences. The people may rebut these  
49 presumptions.

50 § 19. Intentionally omitted.

51 § 19-a. Paragraphs (a) and (b) of subdivision 1 of section 70.70 of  
52 the penal law, as added by chapter 738 of the laws of 2004, are amended  
53 to read as follows:

54 (a) "Felony drug offender" means a defendant who stands convicted of  
55 any felony, defined in article two hundred twenty or two hundred [~~twen-~~  
56 ~~ty-one~~] twenty-two of this chapter other than a class A felony.

1 (b) "Second felony drug offender" means a second felony offender as  
2 that term is defined in subdivision one of section 70.06 of this arti-  
3 cle, who stands convicted of any felony, defined in article two hundred  
4 twenty or two hundred [~~twenty-one~~] twenty-two of this chapter other than  
5 a class A felony.

6 § 19-b. Paragraphs (b) and (c) of subdivision 2 of section 70.70 of  
7 the penal law, paragraph (b) as amended by section 22 and paragraph (c)  
8 as amended by section 23 of part AAA of chapter 56 of the laws of 2009,  
9 are amended to read as follows:

10 (b) Probation. Notwithstanding any other provision of law, the court  
11 may sentence a defendant convicted of a class B, class C, class D or  
12 class E felony offense defined in article two hundred twenty or two  
13 hundred [~~twenty-one~~] twenty-two of this chapter to probation in accord-  
14 ance with the provisions of sections 60.04 and 65.00 of this chapter.

15 (c) Alternative definite sentence for class B, class C, class D, and  
16 class E felonies. If the court, having regard to the nature and circum-  
17 stances of the crime and to the history and character of the defendant,  
18 is of the opinion that a sentence of imprisonment is necessary but that  
19 it would be unduly harsh to impose a determinate sentence upon a person  
20 convicted of a class C, class D or class E felony offense defined in  
21 article two hundred twenty or two hundred [~~twenty-one~~] twenty-two of  
22 this chapter, or a class B felony defined in article two hundred twenty  
23 of this chapter, other than the class B felony defined in section 220.48  
24 of this chapter, as added by a chapter of the laws of two thousand nine  
25 the court may impose a definite sentence of imprisonment and fix a term  
26 of one year or less.

27 § 19-c. The opening paragraph of paragraph (b) and paragraph (e) of  
28 subdivision 3 of section 70.70 of the penal law, the opening paragraph  
29 of paragraph (b) as amended by section 23 and paragraph (e) as added by  
30 section 25 of part AAA of chapter 56 of the laws of 2009, are amended to  
31 read as follows:

32 Except as provided in paragraphs (c), (d) and (e) of this subdivision,  
33 when the court has found pursuant to the provisions of section 400.21 of  
34 the criminal procedure law that a defendant is a second felony drug  
35 offender who stands convicted of a class B, class C, class D or class E  
36 felony offense defined in article two hundred twenty or two hundred  
37 [~~twenty-one~~] twenty-two of this chapter the court shall impose a deter-  
38 minate sentence of imprisonment. Such determinate sentence shall include  
39 as a part thereof a period of post-release supervision in accordance  
40 with section 70.45 of this article. The terms of such determinate  
41 sentence shall be imposed by the court in whole or half years as  
42 follows:

43 (e) Alternate definite sentence for class C, class D and class E felo-  
44 nies. If the court, having regard to the nature and circumstances of the  
45 crime and to the history and character of the defendant, is of the opin-  
46 ion that a sentence of imprisonment is necessary but that it would be  
47 unduly harsh to impose a determinate sentence upon a person convicted of  
48 a class C, class D or class E felony offense defined in article two  
49 hundred twenty or two hundred [~~twenty-one~~] twenty-two of this chapter,  
50 the court may impose a definite sentence of imprisonment and fix a term  
51 of one year or less.

52 § 19-d. The opening paragraph of paragraph (b) of subdivision 4 of  
53 section 70.70 of the penal law, as added by chapter 738 of the laws of  
54 2004, is amended to read as follows:

55 When the court has found pursuant to the provisions of section 400.21  
56 of the criminal procedure law that a defendant is a second felony drug

1 offender whose prior felony conviction was a violent felony, who stands  
2 convicted of a class B, class C, class D or class E felony offense  
3 defined in article two hundred twenty or two hundred [~~twenty-one~~] ~~twen-~~  
4 ~~ty-two~~ of this chapter, the court shall impose a determinate sentence of  
5 imprisonment. Such determinate sentence shall include as a part thereof  
6 a period of post-release supervision in accordance with section 70.45 of  
7 this article. The terms of such determinate sentence shall be imposed by  
8 the court in whole or half years as follows:

9 § 20. Intentionally omitted.

10 § 21. Intentionally omitted.

11 § 22. Subdivision 1 of section 170.56 of the criminal procedure law,  
12 as amended by chapter 360 of the laws of 1977, is amended to read as  
13 follows:

14 1. Upon or after arraignment in a local criminal court upon an infor-  
15 mation, a prosecutor's information or a misdemeanor complaint, where the  
16 sole remaining count or counts charge a violation or violations of  
17 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 222.10, 222.15,  
18 222.25, 222.30, 222.45 or 222.50 of the penal law, or upon summons for a  
19 nuisance offense under section sixty-five-c of the alcoholic beverage  
20 control law and before the entry of a plea of guilty thereto or  
21 commencement of a trial thereof, the court, upon motion of a defendant,  
22 may order that all proceedings be suspended and the action adjourned in  
23 contemplation of dismissal, or upon a finding that adjournment would not  
24 be necessary or appropriate and the setting forth in the record of the  
25 reasons for such findings, may dismiss in furtherance of justice the  
26 accusatory instrument; provided, however, that the court may not order  
27 such adjournment in contemplation of dismissal or dismiss the accusatory  
28 instrument if: (a) the defendant has previously been granted such  
29 adjournment in contemplation of dismissal, or (b) the defendant has  
30 previously been granted a dismissal under this section, or (c) the  
31 defendant has previously been convicted of any offense involving  
32 controlled substances, or (d) the defendant has previously been  
33 convicted of a crime and the district attorney does not consent or (e)  
34 the defendant has previously been adjudicated a youthful offender on the  
35 basis of any act or acts involving controlled substances and the  
36 district attorney does not consent. Notwithstanding the limitations set  
37 forth in this subdivision, the court may order that all proceedings be  
38 suspended and the action adjourned in contemplation of dismissal based  
39 upon a finding of exceptional circumstances. For purposes of this subdivi-  
40 vision, exceptional circumstances exist when, regardless of the ultimate  
41 disposition of the case, the entry of a plea of guilty is likely to  
42 result in severe or ongoing consequences, including, but not limited to,  
43 potential or actual immigration consequences.

44 § 23. Intentionally omitted.

45 § 24. The criminal procedure law is amended by adding a new section  
46 440.46-a to read as follows:

47 § 440.46-a Motion for resentence; persons convicted of certain marihuana  
48 offenses.

49 1. When a person is serving a sentence for a conviction in this state,  
50 whether by trial verdict or guilty plea, under former article two  
51 hundred twenty-one of the penal law, and such persons' conduct as  
52 alleged in the accusatory instrument and/or shown by the guilty plea or  
53 trial verdict would not have been a crime under article two hundred  
54 twenty-two of the penal law, had such article two hundred twenty-two  
55 rather than former article two hundred twenty-one of the penal law been  
56 in effect at the time of such conduct, then the chief administrative

1 judge of the state of New York shall, in accordance with this section,  
2 automatically vacate, dismiss and expunge such conviction in accordance  
3 with section 160.50 of this chapter, and the office of court adminis-  
4 tration shall immediately notify the state division of criminal justice  
5 services, state department of corrections and community supervision and  
6 the appropriate local correctional facility which shall immediately  
7 effectuate the appropriate relief. Such notification to the division of  
8 criminal justice services shall also direct that such agency notify all  
9 relevant police and law enforcement agencies of their duty to destroy  
10 and/or mark records related to such case in accordance with section  
11 160.50 of this chapter. Nothing in this section shall prevent a person  
12 who believes his or her sentence is required by this section to be  
13 vacated, dismissed and/or expunged from filing a petition with the court  
14 to effectuate all appropriate relief.

15 2. (a) When a person is serving or has completed serving a sentence  
16 for a conviction in this state, whether by trial verdict or guilty plea,  
17 under former article two hundred twenty-one of the penal law, and such  
18 person's conduct as alleged in the accusatory instrument and/or shown by  
19 the guilty plea or trial verdict, or shown by other information: (i)  
20 would not have been a crime under article two hundred twenty-two of the  
21 penal law, had such article two hundred twenty-two rather than former  
22 article two hundred twenty-one of the penal law been in effect at the  
23 time of such conduct; or (ii) under such circumstances such person would  
24 have been guilty of a lesser or potentially less onerous offense under  
25 such article two hundred twenty-two than such former article two hundred  
26 twenty-one of the penal law; then such person may petition the court of  
27 conviction pursuant to this article for vacatur of such conviction.

28 (b) (i) Upon receiving a served and filed motion under paragraph (a)  
29 of this subdivision, the court shall presume that any conviction by plea  
30 was not knowing, voluntary and intelligent and that any conviction by  
31 verdict and any accompanying sentence constitutes cruel and unusual  
32 punishment under the state constitution if either has severe or ongoing  
33 consequences, including but not limited to potential or actual immi-  
34 gration consequences; and the court shall further presume that the  
35 movant satisfies the criteria in such paragraph (a) and thereupon make  
36 such finding and grant the motion to vacate such conviction on such  
37 grounds in a written order unless the party opposing the motion proves,  
38 by clear and convincing evidence, that the movant does not satisfy the  
39 criteria to bring such motion. (ii) If the petition meets the criteria  
40 in subparagraph (i) of paragraph (a) of this subdivision, the court  
41 after affording the parties an opportunity to be heard and present  
42 evidence, may substitute, unless it is not in the interests of justice  
43 to do so, a conviction for an appropriate lesser offense under article  
44 two hundred twenty-two of the penal law.

45 (c) In the event of any vacatur and/or substitution pursuant to this  
46 subdivision, the office of court administration shall immediately notify  
47 the state division of criminal justice services concerning such determi-  
48 nation. Such notification to the division of criminal justice services  
49 shall also direct that such agency notify all relevant police and law  
50 enforcement agencies of their duty to destroy and/or mark records  
51 related to such case in accordance with section 160.50 of this chapter  
52 or, where conviction for a crime is substituted pursuant to this subdi-  
53 vision, update such agencies' records accordingly.

54 3. Under no circumstances may substitution under this section result  
55 in the imposition of a term of imprisonment or sentencing term, obli-  
56 gation or condition that is in any way either harsher than the original

PCL XL error

Subsystem: xlparse

Error: unknown error

Operator: Parser

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