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SPEAKER BIOGRAPHIES

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RICHARD RIFKIN, ESQ., was born in Brooklyn on February 21, 1941 and attended New York City public schools. In 1962 he received a B.A. degree, magna cum laude, from Washington and Jefferson College, having been elected to Phi Beta Kappa, and in 1965, he was awarded an LL.B. degree by Yale Law School. Mr. Rifkin was admitted to
the Bar and entered into the private practice of law in 1966. From 1970 to 1973, he served during the session as staff counsel to Assemblyman Leonard Stavinsky. He was appointed Counsel to the Bronx Borough President in 1973. In 1979, Attorney General Robert Abrams appointed Mr. Rifkin Deputy First Assistant Attorney General; and in 1984, Counsel to the Attorney General; and in 1991, First Assistant Attorney General. From 1994 to 1999, Mr. Rifkin served as Executive Director of the State Ethics Commission. He was appointed in 1999 by Attorney General Spitzer as Deputy Attorney General for the office’s State Counsel Division. In 2007, he was appointed Special Counsel to the governor, where he remained until June 2008, when he assumed the position of Special Counsel to the New York State Bar Association. Currently, he continues to serve the Association as a consultant. Since 1984, Mr. Rifkin has served as a member of the Chief Administrative Judge’s Advisory Committee on Civil Practice. He has served on various committees of the New York City Bar Association and New York State Bar Association, and was, for two terms, a member of the House of Delegates of the latter.

P. DAVID SOARES, ESQ. was first elected Albany County District Attorney in November 2, 2004. He is now serving his fourth term as District Attorney in Albany County. In addition, DA Soares currently serves as the president of the District Attorney’s Association of the State of New York (DAASNY). Having handled thousands of cases in Albany County City Courts as an Assistant District Attorney, David witnessed the failings of the criminal justice system. In 2004, David sought office to ensure Justice for Albany County residents an on January 1, 2005, David realized his goal of becoming Albany County District Attorney. Since taking office, David has continued to devote his energy to bringing “one Standard of Justice” to Albany County. He remains committed to leading an office that is Tough on Crime and Smart on Prevention by: Reducing street violence through creative, non-traditional means; Building hope for the people of Albany County by restoring communities; Dealing with the crisis of re-entry, and Emphasizing prevention over prosecution. The work ethic instilled in David by his parents became the foundation of his career. David worked his way through Cornell University, and received a Bachelor of Science degree in Communications. After Cornell, David attended Albany Law School and received his law degree in 1999. As he had at Cornell University, David worked his way through Albany Law School working at the Albany Airport Authority, Interfaith Partnership for the Homeless, AIDS Law Clinic and the Albany County District Attorney’s Office. He also interned at the District Attorney's Office, where he eventually became an Assistant District Attorney and Albany County’s first Community Prosecutor. He received his B.S in Communications from Cornell University and his J.D. from Albany Law School.

PROF. JULIE E. STEINER teaches Cannabis Law and Policy, Environmental and Land Use Law, Torts, and Introduction to Law at Western New England School of Law. Her scholarly work focuses on legal policy reform and enforcement theory. Professor Steiner’s current research focuses on the historical development of, and normative approaches to, cannabis law and policy. She has a particular interest in the use of social media to advance knowledge building. Her scholarship has appeared in numerous journals, including the William and Mary Environmental Law and Policy
Professor Steiner is a frequent lecturer, and has been cited in the media for her expertise on cannabis law, including appearances on New England Public Radio, in WalletHub’s “Most Fun States in America” and in the Springfield Republican. Professor Steiner has also lectured and been quoted extensively about cannabis, environmental, and tort law. A passionate educator, Professor Steiner has been recognized for teaching excellence. She was awarded the Catherine J. Jones Professor of Year Award in 2012, 2013 and 2015. Prior to joining the faculty of Western New England University School of Law, Professor Steiner was a member of the full time faculty at St. John’s University School of Law where she received the honor of Professor of the Year (2009) and the Dean’s Teaching Award (2008). Professor Steiner graduated as Edward F. Hennessey Distinguished Scholar and a Paul J. Liacos Scholar, cum laude, from Boston University School of Law. She was a Visiting Student of International and Comparative Law at Oxford University, St. Catherine’s College (Hilary Term, 1994). Upon graduation, she clerked for the Honorable Peter W. Kilborn of the Massachusetts Land Court. She received her B.A., summa cum laude, in English and Political Science with Honors, from Syracuse University. Prior to joining the legal academy, Steiner was a litigator with the New York firms of K&L Gates, LLP, and Dewey Ballantine, LLP, where she focused on environmental law and land use matters. Her pro bono practice included service as a Voluntary Appellate Defender in tandem with the New York Office of the Appellate Defender. Prof. Steiner is admitted to practice in the Commonwealth of Massachusetts, the State of New York, the Southern District of New York and the Eastern District of New York.
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Charge

In his January 2018 budget address, Governor Andrew M. Cuomo called for an assessment of the possible impact of regulating marijuana in New York State (NYS). The Governor directed NYS agencies to evaluate the health, public safety, and economic impact of legalizing marijuana. The experience of legalized marijuana in surrounding states was identified as an important issue to consider in the impact assessment.

Review Process

Pursuant to the Governor’s charge, a thorough review was conducted of the health, criminal justice and public safety, economic, and educational impacts of a regulated marijuana program in NYS. The assessment included an examination of the implications of marijuana legalization that has recently occurred in surrounding jurisdictions. This is particularly important because the status quo in NYS is changing as the State shares borders with some jurisdictions that have legalized marijuana and some that are likely to legalize soon.

This impact assessment involved a public health approach to examining the benefits and risks associated with legalizing marijuana in NYS as compared to maintaining the status quo. In developing the impact assessment, an extensive analysis of peer-reviewed literature was conducted, and information was obtained from jurisdictions that have legalized marijuana. In addition, experts in State agencies were consulted, including the Department of Health (DOH), the Office of Mental Health, the Office of Alcoholism and Substance Abuse Services, the NYS Police, the Office of Children and Family Services, the Department of Taxation and Finance, and the Department of Transportation.

Notably, some issues associated with regulating marijuana have been studied more thoroughly than others. In addition, relevant stakeholders with differing viewpoints have weighed in on the potential impact of legalizing marijuana. To ensure a comprehensive assessment, data from a variety of sources were acquired. Given the variety of sources utilized and the breadth of information contained in this report, some areas of potential impact contain discordant findings or viewpoints.

Introduction

Marijuana can be consumed by inhalation (smoking and vaporizing\(^1\)), oral consumption and topicals. It contains a mix of THC\(^2\), cannabidiol (CBD)\(^3\), terpenes\(^4\) and other compounds.

Marijuana is easily accessible in the unregulated market. A 2017 Marist Poll showed that 52 percent of Americans 18 years of age or older have tried marijuana at some point in their lives, and 44 percent of these individuals currently use it.\(^1\) Estimates from the National Survey on Drug Use and Health (NSDUH) indicate that one in ten New Yorkers used marijuana in the last month.\(^2\) The status quo (i.e., criminalization of marijuana) has not curbed marijuana use and has, in fact, led to unintended consequences, such as the disproportionate criminalization and incarceration of certain racial and ethnic groups that has a negative impact on families and communities.

From the late 1800s until the 1930s, marijuana was generally considered a benign, medically efficacious substance that was sold in pharmacies and doctors’ offices throughout the United States to treat various ailments. During the “reefer madness” era

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\(^1\) **Vaporizing** is the process of heating dried marijuana to a temperature just below its combustion point of 392°F. Vaporizers, devices used to use marijuana this way, consist of a heating source and a delivery system.

\(^2\) **Tetrahydrocannabinol** (THC) is the primary psychoactive component in marijuana which binds to the cannabinoid receptors primarily in the brain.

\(^3\) **Cannabidiol** (CBD) is a marijuana compound that has medical benefits but is not psychoactive. CBD is one of approximately 113 cannabinoids identified in cannabis.

\(^4\) **Terpenes** are a diverse class of hydrocarbons that are responsible for the aroma of the marijuana plant.
of the 1930s, there was a concerted effort to convince the country that marijuana posed such a danger to society, only prohibition could save it, and the risks continued to be exaggerated for many years through propaganda.\(^3\)

In 1999 the Institute of Medicine (IOM) found a base of evidence to support the benefits of marijuana for medical purposes.\(^4\) There is a growing body of evidence that marijuana has health benefits. Peer-reviewed literature, news reports, and anecdotal evidence demonstrate that marijuana is beneficial for the treatment of pain, epilepsy, nausea, and other health conditions. Twenty-nine states and Washington, DC, have established medical marijuana programs that benefit patients with numerous conditions. Success with medical programs across the country has led some jurisdictions to legalize marijuana for regulated adult use\(^5\) (eight states and Washington, DC). Low THC/high CBD\(^6\) products are approved in 17 additional states (See Appendix A Figure 1).\(^6\)

In addition, studies have found notable associations of reductions in opioid prescribing and opioid deaths with the availability of marijuana products. States with medical marijuana programs have been found to have lower rates of opioid overdose deaths than other states.

In 2014, Governor Cuomo signed the Compassionate Care Act into law, establishing New York State’s Medical Marijuana Program. Since the program was established, continued improvements have been made to better serve patients. To improve patient access, nurse practitioners and physician assistants were approved to certify patients for medical marijuana, and the number of organizations approved to manufacture and dispense medical marijuana was increased. In addition, the list of qualifying conditions was expanded to include chronic pain and post-traumatic stress disorder. Most recently, in response to the unprecedented opioid epidemic, it was announced that opioid use will be added as a qualifying condition to ensure that providers have as many options as possible to treat patients. Other program enhancements include extending the variety of medical marijuana products, improving the dispensing facility experience, and streamlining program requirements. The State’s Medical Marijuana Program is a national model, with almost 1,700 registered providers and 59,653 certified patients.

In addition to health impacts, the prohibition of marijuana has had significant impacts on criminal justice. The Marijuana Reform Act of 1977 decriminalized private possession of a small amount of marijuana, punishable by a maximum fine of $100. However, possession of marijuana in public view remains a misdemeanor. Over the past 20 years, there have been more than 800,000 arrests for marijuana possession, and the increasing emphasis on minor marijuana arrests has had a disproportionate impact on communities of color.\(^7\) The over-prosecution of marijuana has had significant negative economic, health, and safety impacts that have disproportionately affected low-income communities of color. In 2012, the Governor introduced legislation to ensure that possession of a small amount of marijuana, whether public or private, is treated as a violation and not as a misdemeanor. The legislature failed to adopt the proposal. Because of the over-prosecution of marijuana, a regulated program in NYS should include provisions to address the collateral consequences of prior criminal convictions for marijuana possession or use, such as barriers to housing and education. As the Governor has stated, the impact of legalization in surrounding states has accelerated the need for NYS to address legalization. It has become less a question of whether to legalize but how to do so responsibly.

A regulated marijuana program would have health social justice and economic benefits. However, risks products can be legal in states that do not have a medical marijuana program.

\(^1\) Low THC/high CBD products do not have psychoactive components and are used for medicinal purposes through oral ingestion or topical application. These
associated with marijuana have been identified, although research for some of those risks is divided. For example, research has demonstrated an association between maternal marijuana smoking and lower birth weight of newborns. Marijuana use may be harmful to the lungs if a combustible form is smoked. For individuals who are susceptible to psychosis, regular use lowers age of onset of psychosis. In addition, there are valid concerns about traffic safety. Risks can be monitored and reduced in a regulated marijuana environment with the establishment of regulations that enhance State control. Regulating marijuana enables public health officials to minimize the potential risks of marijuana use through outreach, education, quantity limits at point of sale, quality control, and consumer protection.

The positive effects of regulating an adult (21 and over) marijuana market in NYS outweigh the potential negative impacts. Harm reduction principles can and should be incorporated into a regulated marijuana program to help ensure consumer and industry safety. Legalizing marijuana could remove research restrictions in NYS, which will enable the State to add to the knowledge of both the benefits and risks. In addition, NYS would be one of the largest regulated marijuana markets. As such, there is potential for substantial tax revenue in NYS, which can be used to help support program initiatives in areas such as public health, education, transportation, research, law enforcement and workforce development. Tax revenues can also support health care and employment. Finally, legalization of marijuana will address an important social justice issue by reducing disproportionate criminalization and incarceration of certain racial and ethnic minority communities.

Findings

I. Health

Regulating marijuana reduces risks and improves quality control and consumer protection.

The organization Doctors for Cannabis Regulation states that regulation benefits public health by enabling government oversight of the production, testing, labeling, distribution, and sale of marijuana. Potency can vary widely based on the strain of marijuana, the way the plant is grown, the part of the plant that is used, how it is stored, and how it is consumed. Consumers purchasing marijuana on the unregulated market are at a severe disadvantage for understanding the nature (e.g., potency and safety) of the product they are acquiring. In an unregulated market where there is no standardization or quality control, there are many opportunities for unsafe contaminants to be introduced, such as fungi spores, mold, bacteria, heavy metals, pesticides, and growth enhancers. As such, regulated marijuana introduces an opportunity to reduce harm for consumers through the requirement of laboratory testing and product labeling. Similar protections are in place for the alcohol and tobacco industries. In a regulated environment, individuals know what they are consuming and can choose a product accordingly. Trained employees can provide guidance and education at point of sale.

Subject matter experts noted that a regulated environment will support consumer choice of content, because education about THC and CBD levels can be made available. Consumers can be given information about the experience they can expect based on the product they purchase and the method of ingestion. Comparisons were made to New York’s Medical Marijuana Program, in which pharmacists and patient counseling are available in dispensaries. People are advised to ‘start low and go slow’ and find the right fit for them.
Research in Colorado found after medical marijuana legalization, there was a significant increase in the number of children under age 12 admitted to emergency rooms due to unintentional marijuana ingestion (over half the cases involved medical marijuana “edibles”).12

A regulated marijuana program should create guidelines to ensure packaging is not attractive to children. Packaging should be child proof and opaque and contain a visible warning label to avoid accidental ingestion and deter minors from using the products. Testing and labeling products will ensure quality and protect public health. A harm reduction approach will ensure consumers are informed about their choices and understand the chemical make-up and potency of the products they purchase.

**Marijuana may reduce opioid deaths and opioid prescribing.**

Research indicates that regulating marijuana can reduce opioid use (legal and illegal). Medical marijuana has added another option for pain relief which may reduce initial prescribing of opioids and assist individuals who currently use opioids to reduce or stop use. Legalization may ease access to marijuana for pain management. The opioid epidemic in NYS is an unprecedented crisis.13 Diagnoses of opioid use disorder are on the rise.14 Besides the dramatic increase in the number of deaths in the past few years, this epidemic has devastated the lives of those with opioid use disorder, along with their families and friends. Those with opioid use disorder are at higher risk for HIV, Hepatitis C, and chronic diseases.15

In NYS, overdose deaths involving opioids increased by about 180 percent from 2010 (over 1,000 deaths) to 2016 (over 3,000 deaths).16 Opioid overdose is now commonplace throughout NYS. Marijuana is an effective treatment for pain, greatly reduces the chance of dependence, and eliminates the risk of fatal overdose compared to most opioid-based medications.17 Studies of some states with medical marijuana programs and/or regulated adult-use have found notable associations of reductions in opioid deaths and opioid prescribing with the availability of marijuana products. States with medical marijuana programs have been found to have lower rates of opioid overdose deaths than other states,18 perhaps lower by as much as 25 percent.19 Studies on opioid prescribing in some states with medical marijuana laws have noted a 5.88 percent lower rate of opioid prescribing, and the implementation of adult-use marijuana laws (which all occurred in states with existing medical marijuana laws) was associated with a 6.38 percent lower rate of opioid prescribing.20 Following legalization of adult-use marijuana in Colorado, the State saw a short-term reversal of the upward trend in opioid-related deaths.21

A regulated marijuana program should promote awareness of marijuana as an effective pain treatment and an alternative to opioids. A regulated marijuana program should coordinate with the State’s Medical Marijuana Program and provide education on the assistance that is available through the Medical Marijuana Program.

**Marijuana has intrinsic health benefits and risks.**

Evidence supports the efficacy of marijuana’s therapeutic benefits. Growing research has demonstrated that marijuana is beneficial for the treatment of pain, epilepsy, nausea, and other health conditions. The medicinal benefits of marijuana have been acknowledged.22 The negative health consequences of marijuana have been found to be lower than those associated with alcohol, tobacco and illicit drugs including heroin and cocaine.23,24

There is an association between marijuana use and impairment in the cognitive domains of learning, memory, and attention (due to acute marijuana use).25, 26

Amotivational syndrome is anecdotal reported to be associated with chronic marijuana use. This is not supported in the literature. One study found that while cannabis was associated with a transient amotivational state, dependence was not associated with amotivation.27 Another study, using
a survey to compare daily users to never-users found no difference in motivation as measured by an Apathy Scale.\textsuperscript{28}

Marijuana may be harmful to the lungs if a combustible form is smoked. However, alternatives can be used (e.g., vaping, edibles). Regulating marijuana will provide an opportunity to furnish information regarding the various methods of consumption.

Most women who use marijuana stop or reduce their use during pregnancy.\textsuperscript{29} There is research that demonstrates an association between maternal marijuana smoking and lower birth weight of the newborn. Data have not identified any long-term or long-lasting meaningful differences between children exposed to marijuana in utero and those not exposed.\textsuperscript{30} There are insufficient data to evaluate the effects of marijuana use on infants during lactation and breastfeeding, and in the absence of such data, marijuana use is discouraged. The American College of Obstetrics and Gynecology (ACOG) recommends that women who are pregnant should be discouraged from using marijuana due to concerns regarding impaired neuro-development as well as maternal and fetal exposure to the adverse effects of smoking. The ACOG recommends seeking alternative therapies for which there are better pregnancy-specific safety data.\textsuperscript{31}

A regulated marijuana program should furnish education about the health benefits and risks of marijuana and provide guidelines to reduce potential harms of marijuana use.

**Marijuana can have effects on mental health.**

There is little evidence that marijuana use is significantly or causally associated with more common mental illnesses (such as mild-to-moderate depression or anxiety) or other adverse outcomes (such as suicide) in the general population. Regular marijuana use in youth is associated with lower academic achievement,\textsuperscript{32} but causation is unclear (e.g., cognitive vs. motivation vs. other factors).\textsuperscript{33}

There is strong evidence that individuals with serious mental illnesses (SMI) in general, including psychotic disorders, bipolar disorders, and serious depression, use marijuana at high rates, and those who continue using marijuana have worse outcomes and functioning.\textsuperscript{34}

Adolescents who use marijuana regularly have an increased risk of developing psychosis.\textsuperscript{35} Additionally, for individuals who are susceptible to psychosis, regular use of marijuana lowers the age of onset of psychotic disorders.\textsuperscript{36} People with psychotic disorders who use marijuana regularly have worse symptoms, functioning, and health outcomes, and stopping marijuana use improves mental health outcomes.\textsuperscript{37,38}

In individuals diagnosed with bipolar disorder, there is evidence of an association between regular marijuana use and increased symptoms of mania and hypomania.\textsuperscript{39,40}

It is important to note that there is some evidence that CBD can reduce the effect of THC on psychosis, and using marijuana with lower levels of THC may be less likely to be associated with the development of psychosis.\textsuperscript{41} In addition, research has shown that genetics and other environmental factors also have significant effects on the course of SMI.\textsuperscript{42}

➢ **Subject matter experts** noted that there are many possible confounding factors when examining the relationship between marijuana use and various health outcomes, and we should, therefore, be careful about stating as fact that one thing causes another. Others noted there is substantial evidence of the effects of marijuana use on persons at risk for psychotic illnesses, and there is controversy about its effects on people with less serious mental illnesses such as milder depression and anxiety.

Public health surveillance and education officials will need to conduct surveillance on youth marijuana use and any possible impacts on the onset and incidence of psychosis, as well as effects on academic achievement. Mental health professionals will need to monitor the effects of
marijuana legalization on the population with SMI, and resources will need to be directed to prevention, harm reduction and treatment efforts for individuals with SMI.

Changes in overall patterns of use are not likely to be significant.
It is likely that some people who have never used marijuana before due to fear of legal repercussions may try marijuana once legal sanctions are lifted. Some states that have a regulated marijuana program have seen a slight increase in adult use, while other states have seen no increase at all. This does not mean that those individuals will become regular or even semi-regular marijuana users.

It is important to note that reported increases in the number of people who use marijuana can be partially attributed to under-reporting prior to legalization, when there is reluctance to report illegal drug use due to fear of legal repercussions and stigma. Decreasing social stigma surrounding marijuana and no longer having to fear legal repercussions can lead to accurate reporting on use in surveys after legalization.

➢ Subject matter experts noted that there is no conclusive evidence about whether legalizing marijuana increases use. It was pointed out that as with alcohol, use varies. Subject matter experts noted that brief increases in use in Colorado and Washington leveled out. They noted that such increases are, at least in part, the result of tourism. People in states without legal access are willing to travel to states where marijuana is legal. As more of the country legalizes, these increases will fade.

A regulated marijuana program should monitor and document patterns of use to evaluate the impact of legalization on use.

The majority of credible evidence suggests legalization of marijuana has no or minimal impact on use by youth.
Criminalization in the U.S. has not curbed teen use. Marijuana is the most commonly used illicit substance by adolescents. Eighty to ninety percent of American eighteen-year-olds have consistently reported that marijuana is “very easy” or “fairly easy” to obtain since the 1970s. Research regarding tobacco demonstrates that establishing a suitable minimum legal age can have a dramatic impact on youth access. Research has identified a variety of mechanisms by which youth obtain tobacco, one of which is social sources. Friends who are 18 years of age or over are a major source of tobacco for older adolescents. Data provides a strong reason to believe that increasing the minimum legal age to 21 will contribute to reductions in youth tobacco use. Drawing parallels from tobacco research, regulating marijuana would enable the State to establish controls over marijuana use, including setting legal age limits, which will reduce youth access to marijuana. In addition, the creation of a regulated marijuana program would establish a legal distinction between underage and adult marijuana use.

➢ Subject matter experts noted that marijuana will be more difficult for youth to obtain in a regulated marijuana environment. They stated it is easier for teens to get marijuana than alcohol because alcohol is regulated and marijuana is not. They asserted that the illicit economy operates now with no rules or regulations, youth know how to obtain marijuana, and the notion that regulation will foster greater demand is unfounded.

Law enforcement raised a concern about a report from the Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA), which tracked the impact of marijuana legalization in the State of Colorado and found that youth past-month marijuana use increased 20 percent in the two-year average (2013-14) since Colorado legalized regulated marijuana compared to the two-year average prior to legalization.

However, other studies have shown little or no change in adolescent marijuana use following legalization. Data from multiple sources indicate that legalization in Colorado had no substantive impact on youth marijuana use. Marijuana use rates, both lifetime use and current use, among
high school students in Colorado did not change significantly following legalization. Similarly, past 30-day use among persons 12-17 years old in Colorado did not change significantly following legalization. A 2017 study of adolescent marijuana use before and after regulated marijuana implementation in Colorado found there was little change in adolescent marijuana use but a significant increase in perception of ease of access. Moreover, post legalization rates in Colorado were not significantly different from usage rates nationally.

Meta-analysis of existing literature does not support the hypothesis that recent changes to marijuana laws have led to an increase in marijuana use prevalence in adolescents. According to the 2016 U.S. Substance Abuse and Mental Health Services Administration National Survey on Drug Use and Health, rates of marijuana use among the nation's 12- to 17-year-olds dropped to their lowest level in more than two decades. According to a 2016 report from the State of Oregon, recent trends in youth use have been stable during the period following the enactment of adult-use regulations. A Washington State evaluation report states that across grades 6, 8, 10, and 12, marijuana use indicators have been stable or fallen slightly since legalization. The Monitoring the Future Survey conducted by the National Institute on Drug Abuse (NIDA) found that lifetime and current marijuana use among 8th and 10th graders fell substantially between 1996 and 2016 and remained stable among 12th graders nationally.

➢ Subject matter experts stated there are concerns about the effects of marijuana use on the developing brain. They also noted that there is no convincing evidence about whether legalizing marijuana increases use, and increasing use among youth has not been observed. There is more open discussion now, and the perception is that marijuana is less dangerous. Subject matter experts note that the perception is that the credibility of authority figures is weak because historically, young people have received improper messaging about the dangers of marijuana use. Legalization will allow for a more honest and trustworthy discussion.

An adult-use regulated marijuana program should prohibit use by youth (individuals under 21). At the same time, there should be an emphasis on education that addresses adolescents’ perceptions of the risks, benefits, social norms, and peer influences surrounding marijuana and highlights safety and harm reduction. A regulated marijuana program should implement strategies to reduce youth use of marijuana.

Since marijuana is the most commonly used illegal substance, people who have tried other substances also are likely to have tried marijuana and alcohol. The majority of individuals who use marijuana do not try other illicit drugs. Additionally, an individual’s environment, genetics and social context are important in understanding an individual’s propensity to use substances and develop a substance use disorder. In a study of initiation into marijuana use which utilized twins to control for genetic factors, researchers found that causal conclusions cannot be drawn related to initiation into marijuana use. This study also found that early regular use of tobacco and alcohol were the two factors most consistently associated with later illicit drug use.

➢ Subject matter experts stated that the research community generally does not recognize the premise that marijuana leads to the use of other substances as a legitimate or plausible assertion.

Legalizing marijuana results in a reduction in the use of synthetic cannabinoids/novel psychoactive substances.

The Global Drug Survey indicated that countries that decriminalize marijuana have lower prevalence rates of synthetic marijuana use. Synthetic cannabinoids are compounds that are sprayed on plant material and purchased for smoking as a “legal high.” THC is a partial agonist at the cannabinoid receptor, while these
compounds are full agonists and more potent. Therefore, while the effects are often somewhat like marijuana, the adverse effects can be far more severe, including delirium, lethargy and coma, seizures and hallucinations.\textsuperscript{53} Other compounds may also be in the mix. For example, in April, there were deaths from these products.\textsuperscript{64} There is disagreement between some experts about the effect legalization will have on synthetic cannabinoid use. However, it is clear that it is often chosen to avoid detection in urine testing.\textsuperscript{65} One survey found that most users prefer natural cannabis.\textsuperscript{66} The synthetic cannabinoid market should be eliminated. A reduction in synthetic cannabinoid availability and use would have particular benefits for individuals with SMI.

A regulated marijuana program should include among its goals reducing the use of synthetic cannabinoids/novel psychoactive substances and ultimately eliminating the synthetic cannabinoid market.

**Problematic marijuana use includes Cannabis Use Disorder and Cannabinoid Hyperemesis Syndrome.**

There is a lack of consensus as to what percentage of individuals who use marijuana develop some form of dependence, but estimates range from 8.9 percent to 30 percent of the population who uses marijuana.\textsuperscript{67,68} The risk factors for a poor outcome are unclear. However, it will be important to ensure access to treatment, support and care when necessary.

The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), includes criteria to diagnose Cannabis Use Disorder. Cannabis Use Disorder is problematic marijuana use that impedes an individual’s quality of life and tolerance to marijuana, and use of marijuana continues despite awareness of physical or psychological problems attributed to use.\textsuperscript{69} Estimates of Cannabis Use Disorder prevalence vary from 2.5 percent to 6.3 percent, and most cases are not treated.\textsuperscript{70} Data indicates that Cannabis Use Disorder is more common among people diagnosed with and treated for mental illnesses. Psychotherapy can be used to treat Cannabis Use Disorder, and marijuana legalization across the country has led to more dialogue and research around the efficacy and availability of such treatment.\textsuperscript{71}

It is important to ensure that experts in the field of substance use disorder do not conflate the treatment of Cannabis Use Disorder with other substance use disorders. Every effort should be made in a regulated marijuana program to avoid tobacco and alcohol industry participation.

Cannabinoid Hyperemesis Syndrome can also occur due to heavy use of marijuana and presents with episodes of severe nausea and cyclical vomiting. Symptoms dissipate when marijuana use is stopped. More research is required to better understand why marijuana has antiemetic properties, yet it can elicit this response.\textsuperscript{72} An analysis of the medical records of 1,571 patients with the characteristic cyclical vomiting of the syndrome indicated that approximately 98 (6 percent) had Cannabinoid Hyperemesis. Further research is needed to truly identify prevalence of the syndrome.\textsuperscript{73}

- **Subject matter experts** noted that a framework of regulation could support a more appropriate level of treatment for marijuana use that focuses on harm reduction. Legalization could result in more effective partnerships in communities throughout the State. **Subject matter experts in substance use services provided data on marijuana treatment admissions from two states that have legalized marijuana. According to the Colorado Department of Human Services, Office of Behavioral Health, marijuana treatment admission rates in Colorado increased each year between 2011 and 2015 but declined significantly during 2016. According to the Washington State Department of Social and Health Services, Division of Behavioral Health and Recovery, marijuana treatment admissions in Washington State declined each year between 2012 and 2015.**

The expertise of substance use specialists will be critical in addressing the issues associated with problematic marijuana use, and resources must be directed to treatment, support and care when
needed. The identification of persons who might need assistance with their marijuana consumption and referral to treatment centers or other supportive services should be a component of a regulated marijuana program. In addition, education and labeling would allow individuals to self-select lower potency items/products with higher CBD/lower THC. Education and labeling should be used to support consumer choice and reduce harm.

**The NYS Medical Marijuana Program would adapt to coordinate with a regulated marijuana market.**
New York State’s Medical Marijuana Program has almost 1,700 registered providers and serves 59,653 certified patients. In the two years since the Medical Marijuana Program was implemented, there have been 27 reported adverse events out of about 300,000 transactions. None resulted in death, and most persons changed to another product without further incident.

As part of the planning for the potential regulation of marijuana, it will be important to re-examine the State’s Medical Marijuana Program to ensure access for anyone in need and determine the changes necessary to ensure both programs address their defined objectives. In addition, the State will evaluate information from the eight states (and Washington, D.C.) that currently operate both medical and recreational marijuana programs to determine how they assure patient safety.

Individuals who could benefit from medical marijuana should work with a provider to determine if they should utilize the Medical Marijuana Program.

➢ **Subject matter experts** noted that regulated marijuana program participants who would benefit from medical advice and support can be transitioned to the Medical Marijuana Program. A 2018 study of health conditions and motivations for marijuana use among young adult medical marijuana patients and non-patient marijuana users in Los Angeles found that a notable proportion of non-patients reported health problems that might qualify them for the medical marijuana program.24

A regulated marijuana program must provide education on the assistance that is available in the Medical Marijuana Program to ensure populations that need medical guidance and support have the information necessary to access the program. Growing the medical program while implementing a regulated marijuana program will reduce the risks of legalizing marijuana for individuals who require medical guidance.

**II. Criminal Justice and Public Safety**

**Criminalization of marijuana has not curbed marijuana use despite the commitment of significant law enforcement resources.**
Marijuana use has remained relatively stable nationally since 2002, with minor changes.

**Criminal records impede New Yorkers’ lives.**
Statewide, New York’s marijuana arrest rate of 535 arrests per 100,000 people was the highest of any state in 2010 and double the national average. That year, there were 103,698 marijuana-possession arrests in NYS – 29,000 more than Texas, the state with the next highest total.25 The impact of low level marijuana offenses extends beyond utilization of law enforcement and criminal justice resources. Individuals who have a criminal record often face challenges throughout their lives accessing gainful employment and qualifying for federal housing.26 Marijuana-related convictions have a lasting impact on the lives of individuals and their families.

**Marijuana prohibition results in disproportionate criminalization of certain racial and ethnic groups.**
Across the country, individuals who are Black are nearly four times more likely than individuals who are White to be arrested for marijuana possession, despite data showing equal use among racial
Stop and Frisk data from NYC presented in a 2013 report from the NYS Office of the Attorney General demonstrated that there were racial disparities in case outcomes among those stopped and arrested. Individuals who are White who were identified by Stop and Frisk were almost 50 percent more likely than individuals who are Black to have an arrest end in an Adjournment in Contemplation of Dismissal, meaning they avoided a conviction. While marijuana arrests have dropped significantly in New York City since 2014, NYS Division of Criminal Justice Services data demonstrate that 86 percent of the people arrested for marijuana possession in the fifth degree in 2017 were people of color; 48 percent were Black, and 38 percent were Hispanic. Only nine percent were White.

Subject matter experts noted one of the biggest drivers of racial disparities in criminalization and incarceration rates is marijuana, and the best way to address it is to legalize marijuana. A great majority of arrests are for violations or misdemeanors that most people no longer view as criminal behavior. It is rare that these arrests lead to the discovery of guns or violent crimes. Subject matter experts also noted that continued prohibition of public consumption will reduce the impact of regulated marijuana on arrests. They highlighted a recent media report that described an analysis of NYC police data which found that while marijuana-related arrests have dropped, across NYC, individuals who are Black were arrested on low-level marijuana charges at eight times the rate of White, non-Hispanic people over the past three years. Individuals who are Hispanic were arrested at five times the rate of individuals who are White.

Incarceration has a negative impact on families and communities. Arrests and incarceration negatively impact the health of communities and individuals by destabilizing families, hindering access to education and health care, lowering employment opportunities, increasing poverty, and limiting access to housing, particularly in low-income communities of color where arrests are concentrated despite equivalent rates of marijuana use across racial groups. Incarceration of family members destabilizes families and is considered an adverse childhood experience (ACE), which is associated with decreased health-related quality of life (HRQOL) into adulthood. Research indicates that incarceration also has an impact on community health in many areas (including teenage pregnancies and sexually transmitted infections).

Subject matter experts emphasized the need to address the economy of the unregulated market. Regulating marijuana would provide an opportunity to direct resources to workforce development and job creation. Subject matter experts representing law enforcement said that rather than spending time on marijuana arrests, police could devote more time to other aspects of their work, such as community policing and building trust.

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VI Persons are guilty of criminal **possession of marijuana in the fifth degree** when they knowingly and unlawfully possess: 1. marijuana in a public place and such marijuana is burning or open to public view; or 2. one or more preparations, compounds, mixtures or substances containing marijuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams. Criminal possession of marijuana in the fifth degree is a class B misdemeanor. (New York Penal Law §221.10)

VII **Adverse childhood experiences (ACEs)**, according to the Substance Abuse and Mental Health Services Administration (SAMHSA), are stressful or traumatic events, including abuse and neglect. They may also include household dysfunction such as witnessing domestic violence or growing up with family members who have substance use disorders. ACEs are strongly related to the development and prevalence of a wide range of health problems throughout a person’s lifespan, including those associated with substance misuse.
Resources should be directed to community reinvestment in health care, education and workforce development.

**There has been no increase in violent crime or property crime rates around medical marijuana dispensaries.**\(^{\text{VIII, VIII}}\)

Concerns exist around the possibility that there could be an increase in crime, specifically robberies and burglaries, because sale of marijuana is a cash business. However, a representative of the State’s Medical Marijuana Program, which is a cash-only business, stated that there have been no robberies or adverse impact in communities where dispensaries are located.

- **Subject matter experts** emphasized the possibility of a reduction in violent crime due to the substantial reduction in the unregulated market, which would lead to a decline in home invasions associated with illegal marijuana and the associated violence. Law enforcement subject matter experts noted that inhabitants of homes involved in the unregulated market install barricades and traps, which present a danger to law enforcement. In addition, some marijuana is still sold by gangs, and that business model is toxic to neighborhoods.

A regulated marijuana program should monitor crime rates around dispensaries and address instances that may arise.

**Marijuana possession is the fourth most common cause of deportation nationally.**\(^{\text{VIII}}\)

Federal law holds jurisdiction over the possession of marijuana for immigrants, even in states that have legalized. Furthermore, a non-citizen who admits to an immigration official that they possess marijuana can be denied entry into the United States, or their application for lawful status or naturalization may be denied. Depending on the circumstances, it can make a lawful permanent resident deportable. This is true even if the conduct was permitted under state law, the person never was convicted of a crime, and the conduct took place in their own home.\(^{\text{VIII}}\)

**Conclusions cannot be drawn from the existing research on the impact of marijuana use on motor vehicle traffic crashes (MVTC).**

A primary concern of law enforcement is the possibility of increased impaired driving and car crashes in a regulated marijuana environment. In the last 40 years, law enforcement has made great strides in making highways safe. According to law enforcement representatives, in 1973, 35 percent of motorists who were stopped had alcohol in their blood, and 7.5 percent exceeded the legal limit. Today, only eight percent of motorists who are stopped have alcohol in their blood, and only 1.5 percent exceed the legal limit.

- **Subject matter experts** corroborated the concern that marijuana can lead to impairment and discussed the effective anti-DWI efforts that can be expanded to include education about driving while under the influence of marijuana. Law enforcement has changed the cultural dialog on drinking and driving, and their expertise will be critical in effectively addressing the issues of driving while impaired from marijuana. There was consensus that resources must be made available to support education and address law enforcement budgetary needs with the establishment of a regulated marijuana program.

Research indicates that marijuana use by drivers is associated with impaired judgment, motor coordination and reaction time.\(^{\text{VIII}}\) A meta-analysis suggests that marijuana use by drivers is associated with an increased risk of involvement in motor vehicle crashes.\(^{\text{VIII}}\) However, three years after the legalization of regulated marijuana in Colorado, motor vehicle crash rates overall were not statistically different, although this evidence is still preliminary.\(^{\text{VIII}}\)

\(^{\text{VIII}}\) Dispensaries are stores from which marijuana is sold to consumers. Individuals who work at these stores are able to advise customers on the strain or type of marijuana best suited for their needs.
Few states collected pre-legalization baseline data to use as a comparator for evaluation purposes. States that have regulated marijuana have an inability to conclusively state the role that marijuana has played in traffic safety. Data from the National Highway Transportation Administration’s Fatality Analysis Reporting System on crashes contain the caveats that they cannot be reliably compared across or within jurisdictions or across years.\(^8\)

The number of drivers using marijuana has been increasing. The National Roadside Survey conducted at 60 sites around the country found that THC was by far the most prevalent drug detected in their sample of drivers. In 2007, 8.6 percent of drivers tested positive for THC. This increased to 12.6 percent in 2013-14, representing a 48 percent increase in the prevalence of drivers testing positive for THC. Fortunately, the percentage of drivers testing positive for alcohol declined from 12.4 percent in 2007 to 8.3 percent.\(^8\) There is no further funding for these studies, and they cannot be used to produce state-specific data. Studies of the contribution of marijuana to MVTC have had varied results. Two meta-analyses reported near doubling of the risk of fatal crash regardless of the presence of alcohol or other drugs.\(^90,91\) Another study examining similar data found a non-significant contribution of marijuana to crash risk when the model also accounted for the presence of other drugs.\(^92\) Unfortunately, available data is flawed by inconsistencies in both collection and analyses of body fluid samples and descriptions of demographics and crash types.\(^93\)

There are questions about whether presence of THC in an individual’s blood stream is an indicator of impairment. The National Highway Traffic Safety Administration\(^94\) and the AAA Foundation for Traffic Safety\(^95\) have both made the distinction that unlike alcohol, presence of THC in an individual’s blood stream does not equate to impairment. Peer-reviewed literature and major national organizations refute the fact that THC in the bloodstream detects impairment.

In testing for impairment by alcohol, there is a strong correlation between breath/blood levels and impairment, allowing for laws to be set according to these measurements. Testing for marijuana use is more complicated. There is currently no breathalyzer for roadside testing for marijuana use.\(^ix\) Urine testing can only detect an inactive metabolite which may be present for days or weeks after use. Blood levels are more accurate. However, this is an invasive test requiring several legal steps. The THC levels drop in the time it takes to go from the roadside to the blood draw. Furthermore, there is no clear correlation between the level of THC in the blood and impairment. Due to the lipid-solubility of THC, a frequent marijuana user may have measurable THC in their blood, even if they have not used in several days and are not necessarily impaired.\(^96\) The Joint Guidance Statement of the American Association of Occupational Health Nurses and the American College of Occupational and Environmental Medicine\(^97\) reviewed the evidence and suggested that a limit of 5 ng/mL of THC measured in serum or plasma would allow employers to identify potentially impaired employees yet also notes a medical examination focused on identifying impairment is always recommended.

Data on the impact of legalization in states that have passed laws is useful, but it must be noted

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\(^{ix}\) A product is under development albeit the timeline is unknown.
that not all drivers arrested or in fatal crashes are tested for alcohol and/or drugs. The selection bias may lead to over- or under-estimating the impact.

A study comparing motor vehicle-related fatalities in Washington and Colorado to eight similar states found that three years after marijuana legalization, changes in motor vehicle fatality rates were not statistically different from those in similar states without regulated marijuana.

Medical marijuana has been increasing in availability since 1996 when California passed the first law. The number of California drivers killed in crashes that tested positive for drug involvement decreased nine percentage points, from the 2009-2013 average of 28 percent to 19 percent in 2015 (THC is not broken out). 98

While existing information suggests a lower impact than might have been expected, legalization of adult use of marijuana raises valid concerns about traffic safety.

Representatives of law enforcement provided a December 2017 study conducted by the State University of New York, Rockefeller College of Public Affairs and Policy, Institute for Traffic Safety Management and Research, on drug involvement in fatal and personal injury (F&PI) crashes on NYS roadways from 2012 to 2016. The analysis found that although less than one percent of all F&PI crashes each year were drug related, the number of drug-related F&PI crashes increased 20 percent over the five years from 2012 to 2016, and 26 percent of all fatalities in 2016 were drug related, up from 18 percent in 2012-2014. While the study examined the extent to which crashes on New York State’s roadways involve drugs, it did not examine the extent to which drug-related crashes involved marijuana use.

Representatives of law enforcement indicated that in Washington State, six months prior to the legalization of marijuana, 14.6 percent of arrests for driving while intoxicated were the result of marijuana-impaired driving vs. 21.4 percent after legalization. 99 They noted that in the last 40 years, law enforcement has worked to remove intoxicated drivers from our roadways and has made great strides in making highways safe. They are concerned that legalizing marijuana will increase impaired driving and car crashes, and there could be loss of progress.

➢ Subject matter experts noted that the dangers of driving under the influence of alcohol are worse than the dangers of driving under the influence of marijuana. However, there have been mixed reports regarding the impact of regulated use on the increase of traffic accidents and fatalities.

There will be a budget and workload impact on law enforcement related to determining impairment. Currently, Drug Recognition Experts (DREs) are used to measure roadside impairment. DREs are certified law enforcement officers with experience in DUI/drug enforcement who go through extensive training and a certification process. The evaluation the DRE uses to measure impairment is standardized and considers the subject’s mental and physical condition to determine if their impairment is due to drug use (or perhaps an underlying medical condition). 100 This method of measuring impairment is resource intensive, and there are few of them. There will be substantial expense associated with increasing the number of DREs. DREs are trained outside of NYS at the expense of NYS law enforcement. While a breathalyzer for THC may be in development, there is currently no technology for determining impairment. Law enforcement expressed concern about launching a legal program hoping that technology will catch up. They noted that developing and validating a screening tool for purposes of establishing an enforcement paradigm is a lengthy and expensive process involving legal challenges, court rulings, and judicial notice.

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98 Driving under the influence of intoxicants (DUII) can also be referred to as Driving While Intoxicated (DWI).
Advanced Roadside Impaired Driving Enforcement (ARIDE) training is provided to law enforcement personnel as a pre-requisite to DRE training. ARIDE training may be needed for all law enforcement personnel should the decision be made to legalize marijuana use.

Law enforcement raised a concern about drug detection canine units trained to find marijuana. The legalization of marijuana will result in the loss of these dogs, whose training involved significant time and expense. Other states have faced the same situation and have re-assigned their canine units.

There will be budgetary implications for law enforcement associated with training personnel (e.g., ARIDE training), training and certification of a significant number of personnel as DREs, and the impact on canine programs.

- Subject matter experts urged State representatives not to view the difficulties in measuring impairment as a barrier to legalization when solutions can be found. They suggested that mechanisms should be sought to reduce the cost of DRE training and improve access, such as conducting training in NYS. Also noted was that most drugged driving is due to the use of opioids and prescription drugs.

While existing information suggests a lower impact than might have been expected, legalization of adult use of marijuana raises valid concerns about traffic safety. Efforts are in place to expand the monitoring of this risk in NYS. An expansion of education to the public, along with the development of laws and procedures, can assist in reducing the negative impacts.

In conclusion, it will be essential to ensure public safety and the integrity of the program by, among other things:
- Enforcing the under-21 purchasing ban;
- Reducing the illegal market and preventing diversion;
- Ensuring adequate security at cultivation and dispensing facilities;
- Employing a robust monitoring and oversight system with the ability to issue fines for violations and revoke licenses as needed;
- Promoting further study of methods of detecting impaired driving and the impact of legalization of marijuana on the safety of the State’s roadways;
- Enhancing the State’s successful anti-DWI efforts to include impaired driving;
- Educating the public as to the potential risks of excessive use;
- Imposing fines for providing false identification;
- Determining hours of operation restrictions for retail establishments; and
- Imposing a tracking, reporting and compliance system for the regulated marijuana program.

III. Economic Estimates

The marijuana industry is expanding. As more states develop a regulated marijuana market, the industry is growing substantially, more licenses are issued for dispensaries, and more consumers exit from the unregulated market. Regulating marijuana will create jobs. Industry sources estimate that there are between 165,000 to 230,000 full- and part-time workers in the United States marijuana industry.101

Marijuana regulation could generate long-term cost savings. Legalizing marijuana is anticipated to lead to a reduction in costs associated with illegal marijuana, including police time, court costs, prison costs and administrative fees.102 There will be costs associated with the implementation of a regulated marijuana program; however, the revenue generated is likely to sustain the program after the first year.

Regulated marijuana generates tax revenue.

For purposes of this impact assessment, the following analysis of potential tax revenues was
Conducted by the DOH and the Department of Taxation and Finance and reviewed by subject matter experts in economic evaluations. It is important to note, however, that the analyses presented here are for illustration purposes, and policymakers may want to consider other approaches.

Estimates of the size of the current illegal market for marijuana in NYS range from $1.74 billion to $3.5 billion annually, including sales to NYS residents and tourists. These amounts and the inputs used to derive them provide the basis on which to estimate the potential tax revenues the State may realize from taxing regulated marijuana sales. The methodology incorporates certain economic parameters that illustrate some of the demand- and price-related uncertainties that may be encountered given the presence of the current unregulated market as well as decriminalization and other factors. This analysis is limited to potential State and local tax revenues and does not consider any licensing fees or registration fees that may be imposed on retail sellers.

**Methodology**

The potential size of the NYS marijuana market was projected by combining estimates of the State’s adult residents (age 21 or older) and visitors that use marijuana, the average amount they use annually, and recently reported market prices. Other factors that might affect the estimated price and demand for legal marijuana, including consumers’ behavior in the presence of the current illegal market and behavioral changes that could unfold over time as individuals become accustomed to a regulated marijuana marketplace, are also considered. The following estimates of the number of consumers, their marijuana use, and the current reported price are used as the basis for this approach to estimate potential revenues for NYS.

**Consumers**

The US Census Bureau estimates that the State’s population in 2017 was 19.85 million, of which 14.9 million (74.9 percent) are aged 21 or older. Using NYS-specific data on marijuana use as reported in the 2016 National Survey on Drug Use and Health, the proportion of NYS residents who are marijuana users is estimated to be 8.5 percent, resulting in an estimate of approximately 1.27 million NYS residents who are marijuana consumers.

In addition, tourists and other visitors to the State may purchase marijuana after regulated use is legalized. According to the American Hotel and Lodging Association, there are over 234,000 hotel rooms in the State. Assuming 80 percent occupancy with 1.5 adults per occupied room yields almost 281,000 visitors and other overnight travelers to the State. It is assumed that half of these visitors are international travelers and half are domestic, though it is assumed that 75 percent of the latter are from outside NYS. Further, the proportion of domestic marijuana users is assumed to be the same as the national average (7.6 percent), but a lower proportion (6.7 percent) is applied to derive the number of international users. As a result, it is estimated that there are an additional 20,000 marijuana consumers.

Given that marijuana has been legalized in neighboring states such as Massachusetts and Vermont and is under consideration in New Jersey, this analysis did not include any additional consumers to the calculation of the market.

In total, it is estimated that 1,290,000 consumers would access the legal market the first year after legalization of marijuana.

**Consumption**

Fiscal analysis conducted by Washington and Colorado estimates that the average marijuana user consumes five ounces of marijuana per year, while

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x It is possible that persons may come from other states to NYS to purchase legal marijuana, but that additional demand is not estimated.
the Department of Taxation and Finance used data from the National Survey on Drug Use and Health to estimate that the average marijuana user consumes almost 7.9 ounces of marijuana per year. Both estimates are used in this analysis as a high and low estimate.

**Price**
The average retail price of marijuana in NYS has been reported as $270 per ounce for medium quality strains and $340 per ounce for high quality strains. For this analysis, to derive potential ranges of tax revenues, $270 per ounce was used as a low end of the illegal market price range and $340 as the high end of the illegal market price range.

**Market Size**
Based on inputs and assumptions, purchases of illegal marijuana in NYS are estimated to be about 6.5 to 10.2 million ounces annually. At an average retail price of $270 per ounce, the market for marijuana is estimated to be approximately $1.7 billion; at $340 per ounce, the market is estimated to be approximately $3.5 billion.

**Potential State Tax Revenues**
To estimate potential tax revenues, a methodology used by the State Department of Taxation and Finance was followed using $270 and $340 prices per ounce. Moreover, noting that usage can change and has changed over time, for low-estimate scenarios, an annual average consumption of 5 ounces per user was used, while 7.9 ounces was used for high-estimate scenarios. As previously noted, this analysis makes certain adjustments to account for changes in demand, including the effect of the illegal market and other non-price effects. These adjustments include:

- **Legal Market Price**: This is the price that the product sells for at retail to the consumer. This price includes production costs and applicable taxes. For this analysis, an increase of 10 percent is used in these calculations.

- **Price elasticity**: RAND researchers assume a price elasticity of marijuana consumption or demand of between -0.4 and -1.2, with a point estimate of -0.54. For this analysis, a value of -0.8 was used, which was the midpoint of the range cited by the RAND researchers and others.

- **Non-price effect**: RAND researchers note that non-price effects on demand, which arise from reduced risk of arrest, reduced social stigma, lower risk of contaminants or mislabeling, and greater product variety and marketing, can range from 5 percent to 50 percent. Five percent was used in these calculations.

- **Tax rate**: The higher the tax rate imposed, the higher the legal market price will be. In turn, a higher legal market price will have a greater price effect, which will result in users less likely to exit the unregulated market. The Tax Foundation recommends that the tax rate not be so high as to prevent elimination of the illegal market. As of August 2017, marijuana tax rates range from 3.75 percent in Massachusetts to 37 percent in Washington State of the retail price. For purposes of this analysis, ranges of potential revenues are presented assuming: 1) imposing the 7 percent retail tax rate currently assessed on medical marijuana as well as a 15 percent marijuana tax rate, and 2) a combined State and local sales tax rate of 8.5 percent for sales outside the Metropolitan Commuter Transportation District (MCTD) and 8.875 percent for sales inside the MCTD. Given these adjustments and the baseline prices and consumption figures that were determined, the chart below summarizes the inputs used to derive the ranges of the first year’s potential tax revenues (see Table 1 below).
Table 1: Summary of Assumptions & Adjustments for Calculation of First Year Potential Tax Revenues

<table>
<thead>
<tr>
<th></th>
<th>$270 and $340 per ounce</th>
<th>$297 and $374 per ounce</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illegal market price</td>
<td>$270 and $340 per ounce</td>
<td>$297 and $374 per ounce</td>
</tr>
<tr>
<td>sales (estimated)</td>
<td>6.5 -10.2 million ounces</td>
<td>6.5 -10.2 million ounces</td>
</tr>
<tr>
<td>Estimated illegal market size</td>
<td>$1.7 billion - $3.5 billion</td>
<td>$1.7 billion - $3.5 billion</td>
</tr>
<tr>
<td>Estimated legal market price</td>
<td>$297 and $374 per ounce</td>
<td>$297 and $374 per ounce</td>
</tr>
<tr>
<td>Price elasticity of demand</td>
<td>-0.8</td>
<td>-0.8</td>
</tr>
<tr>
<td>Non-price effect of legalization</td>
<td>+5 percent</td>
<td>+5 percent</td>
</tr>
<tr>
<td>Marijuana retail tax rate</td>
<td>7 percent and 15 percent</td>
<td>7 percent and 15 percent</td>
</tr>
</tbody>
</table>

Based on this analysis, the estimated potential total tax revenue in the first year with a price of $297 and illegal market consumption of 6.5 million ounces ranges from $248.1 million (with a 7% tax rate) to $340.6 million (with a 15% tax rate). The estimated potential total tax revenue with a price of $374 and illegal market consumption of 10.2 million ounces ranges from $493.7 million (with a 7% tax rate) to $677.7 million (with a 15% tax rate). The table below shows the results of applying these inputs and adjustments (see Table 2 below).

Table 2: Retail Price/Retail Tax

<table>
<thead>
<tr>
<th>Sales and Tax Revenues</th>
<th>$297 per ounce</th>
<th>$374 per ounce</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Sales</td>
<td>$1.6 billion</td>
<td>$1.4 billion</td>
</tr>
<tr>
<td>Marijuana Retail Tax</td>
<td>$110.3 million</td>
<td>$215.2 million</td>
</tr>
<tr>
<td>State and Local Sales Tax</td>
<td>$137.8 million</td>
<td>$125.4 million</td>
</tr>
<tr>
<td>Total Tax revenues</td>
<td>$248.1 million</td>
<td>$340.6 million</td>
</tr>
</tbody>
</table>

This analysis assumes that a portion of sales remain in the illegal market. Over time, the number of users remaining in the illegal market may decline.
The projection of potential tax revenues is a preliminary estimate based on numerous assumptions. Further analyses should account for possible variations in the values of assumptions used here, which reflect uncertainties in pricing, consumption, and the effect of legalization on the unregulated market. This analysis also reflects uncertainty as to whether lower prices resulting from legalization will cause users to move to the regulated market. Further, given that there is some uncertainty in all parameters used in the analyses described here, these point estimate results should be considered careful and reasonable estimates based on the best available literature. As any regulated marketplace unfolds, such analyses should be routinely updated over time.

Tax revenue can support State program initiatives.

According to the Colorado Department of Revenue, marijuana sales generated nearly $200 million in State tax revenue and license fees in 2016. Colorado’s Marijuana Tax Cash Fund is used for school construction, expanded education, drug prevention efforts and law enforcement. Since municipalities have the choice to participate in the legal market, only participating local governments receive money from the Fund. Washington State uses the funds generated from marijuana sales to aid administrative costs, research projects, substance abuse programs, marijuana programs, health care, and the State’s general fund. Appendix A, Figure 5 illustrates the use of revenue from regulated marijuana and the employment that resulted from legalized marijuana in the State of Colorado.

- Subject matter experts agreed that there is potential for substantial tax revenue in NYS, which can be used for the greater good, such as public health, education, transportation, addressing the needs of a changing workforce, and addressing the changing budgetary needs of law enforcement. Subject matter experts identified evaluation as a priority, stating that it would be irresponsible if NYS does not add to the knowledge around regulated marijuana programming. The availability of State funding for research would remove some of the limitations associated with research using federal dollars.

NYS should follow certain best practices based on lessons learned in other states in implementing a tax on regulated marijuana use and the differing taxing options. Some states had to lower their initial tax rate since a higher price did not incentivize consumers to move from the unregulated to the legal market. If a significant price difference exists between recreational and medical marijuana, consumers will likely prefer the lower price product which is why the ability to adjust or index tax rates to address realities in the market has proven beneficial. For example, a bill put forward in New Jersey proposes a graduated marijuana retail tax. The retail tax begins at a rate of 7 percent in the first year to encourage consumers to transition from the unregulated market. Over the course of five years, in conjunction with a maturing industry, the tax rate increases to 25 percent. Some states overestimated revenue initially, as they did not account for the length of time it takes for a recreational marijuana market to become established, leading to fewer than expected sales.

The three main ways of taxing marijuana are weight-based, price-based and potency-based. A weight based tax is best to be implemented at the producer level and has the advantages of reducing product leakage into the untaxed market, creating a price floor, and allowing for a more stable revenue stream. However, it also incentivizes higher potencies and is more difficult to administer. A retail price-based tax has proven most effective as it is easier to administer and less problematic than a producer or wholesale level tax, but it is a more unstable revenue source. A potency-based tax system best correlates to the level of intoxication (similar to alcohol taxation), yet current testing methods may be inadequate for taxation purposes.
and it could be a more complex tax system to establish and administer.

In addition, there are other inherent risks that will impact the amount of potential revenue collected. These include allowing individuals to grow a certain amount of marijuana plants, placing a limit on the amount purchased or allowing localities to ban the sale of marijuana, which will all lead to an increase of marijuana purchased on the unregulated market and will reduce the amount of tax collected. Also, the strains of marijuana and forms permissible will have an impact on sales. The restrictive nature of current regulations on medical marijuana will also need to be addressed, as well as whether there should be a tax break for those using marijuana for medicinal purposes since both will have a direct impact on the tax amount collected.

Prioritization should be given to an educational approach that emphasizes safety, mitigates potential harm, and suggests that youth delay use.\textsuperscript{116} Evidence suggests that prevention strategies targeting youth can be most effective if they provide honest, science-based information in a non-judgmental and non-punitive manner.\textsuperscript{117} Enhancing youth skills such as personal responsibility and knowledge is essential. While abstinence must be encouraged, youth should be taught to understand that moderation and self-regulation can mitigate potential harms if they do not abstain.\textsuperscript{118}

Research indicates that states need to address adolescents’ perceptions of the risks, benefits, social norms, and peer influences surrounding marijuana use as they implement strategies to reduce youth use of marijuana.\textsuperscript{119} In Washington State, surveys of 8th and 10th graders indicated that they perceived marijuana as being less harmful after legalization.\textsuperscript{120} The same was not true in Colorado, where there was no change in adolescent perception of harmfulness post legalization.\textsuperscript{121}

\textbf{IV. Education}

\textit{Public safety messaging is needed to ensure individuals know about the potential harms of drugged driving.} Individuals who consume marijuana are more likely to perceive the risks of marijuana intoxication while driving as lower than individuals who do not consume marijuana.\textsuperscript{115} Public safety messaging and ongoing monitoring are required to educate the public.

\textit{Marijuana messaging should be tailored to the needs of different key populations including youth/adolescents/young adults and pregnant women.}

In a regulated marijuana program, products can be labeled to indicate the percentages of the various chemical compounds they contain (e.g., CBD vs. THC content) to maximize consumer awareness of potency. Research indicates that issuing guidelines on the following can help ameliorate the potential harms of marijuana use: avoiding combustible use, avoiding use when pregnant, making products with lower potency available, prohibiting youth use, and avoiding consumption of marijuana and tobacco in tandem. Further messaging should be provided to ensure that individuals know about the differences between marijuana use, tobacco use and alcohol use, as well as to ensure that...
individuals exercise caution not to consume multiple substances at once.

**States with legalized marijuana have conducted extensive educational campaigns as their programs were implemented.**

Concerns have been raised by government representatives about the impact of legalized marijuana on the workforce and the need for workforce training. For example, Child Protective Services workers would require training on the appropriate response to a positive screen for marijuana in newborns and mothers if it is no longer illegal. There will be implications for substance use treatment providers. A strategy will be needed for providers who will be required to treat substance use in an environment where marijuana is legal. There is likely to be a need for education for the judiciary and treatment courts.

- **Subject matter experts** noted the need for training for public housing and substance use treatment workers, since marijuana use is punished in a criminalized environment. There would need to be education on dismantling punitive measures.

Legalization provides an opportunity to educate consumers on what their options are and encourage the use of products with lower doses of THC.

**People will be empowered to take more control over their mental and physical health if they are given counsel and guidance. There are opportunities to provide such guidance in a regulated market.**

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**V. Impact of Legalization on Other States**

The legalization of marijuana in neighboring jurisdictions raises concerns about both marijuana diversion to NYS from states that have legalized and revenue diversion from NYS to states that have legalized. Several neighboring jurisdictions have legalized marijuana or are likely to legalize soon. Massachusetts, Vermont, Maine and Canada have legalized marijuana. Legalization is under discussion in New Jersey as well.

Regarding diversion of marijuana from states with legal markets, a University of Oregon study demonstrates that areas legalizing marijuana will likely sell sizable quantities of marijuana to individuals from neighboring regions. Oregon opened a regulated market on October 1, 2015, next to Washington State’s existing market. The study found that Washington retailers along the Oregon border experienced a 41 percent decline in sales following Oregon’s legal market opening. The study found evidence that prior to legalization in Oregon, consumers on the Oregon side of the border were crossing state lines to obtain marijuana in Washington rather than purchase marijuana in Oregon through the unregulated market. This is particularly striking given the fact that obtaining marijuana illegally in Oregon resulted in only a civil fine, whereas crossing state lines to obtain legal marijuana in Washington risked federal felony prosecution. The study suggests that consumers prefer legal, regulated products, perhaps due to the variety of products offered, the presence of safety regulations, and the additional product attribute information stemming from THC and CBD testing.123

Legalization in surrounding jurisdictions could lead to an increase in marijuana possession arrests in border counties in NYS. A Washington State University study examined the “spillover” effects of regulated marijuana legalization in Colorado and Washington on neighboring states without
legalization and found that legalization causes a sharp increase in marijuana possession arrests in border counties of neighboring states relative to non-border counties in these states. Regulating marijuana has no impact on juvenile marijuana possession arrests but is rather fully concentrated among adults.\textsuperscript{124}

Notably, unlike other states that shared one border with a state that legalized, New York shares multiple borders with states that have or are considering legalized marijuana (i.e., Massachusetts, Vermont and New Jersey) and one international border (New York shares a border with two Canadian provinces). If marijuana is not legalized, the cross-border effects in NYS are likely to be substantial, involving numerous counties and municipalities.

Legalization in neighboring jurisdictions raises the likelihood of revenue flowing from New York into those jurisdictions. The methodology used in a joint New Jersey Policy Perspective/New Jersey United for Marijuana Reform analysis of revenue implications of legalized marijuana in New Jersey includes estimates associated with non-New Jersey participants, specifically residents of New York and Pennsylvania, in their marijuana marketplace. The projected annual expenditures of New York and Pennsylvania consumers in New Jersey’s market is estimated at $108.7 million.\textsuperscript{125}

- **Subject matter experts** noted that failure to legalize in NYS could increase unregulated market sales if persons buy marijuana legally in surrounding jurisdictions to re-sell it illegally in NYS.

> VI. Implementation

The overarching goal of regulating marijuana in NYS must be the incorporation of harm reduction strategies. Implementation of a regulated marijuana program will require considerable planning as to the regulatory mechanisms needed to protect public health, provide consumer protection, and ensure public safety. At the same time, a well thought out program should address the social justice issues associated with criminalization, provide opportunity for community revitalization, and establish a system to capture and invest tax revenue. Ultimately, the system should be designed to reduce the utilization of the unregulated market. Implementation of a regulated marijuana program will require legislative and regulatory approaches that address the diverse needs of the State and the differing needs of a regulated marijuana program in rural regions compared to those in urban areas.

A key substantive policy area is the determination of the types of licenses to be granted in a regulated marijuana program. Other states have various sub-classifications of licenses, but they generally fall within classifications such as: cultivation/producer, manufacturing/processor, testing, retail, and distribution. California has 13 types of cultivation licenses alone, varying based on size, indoor, outdoor, nursery, microbusiness, etc.\textsuperscript{126} Massachusetts is prioritizing applicants for licensure to ensure equal opportunities in the regulated market for individuals who meet certain criteria, including ownership by or the provision of services to persons who live in areas of disproportionate impact, employment of residents of areas of disproportionate impact, employment of people with drug-related criminal offender record information who are otherwise employable, and ownership by persons of color.\textsuperscript{127} Many states offer producer licenses at different tiers based on the
canopy\textsuperscript{xiii} of their potential cultivation.\textsuperscript{128} Fee structures for the applications of these licenses and the licenses themselves will also need to be determined. Further consideration is needed to determine who will review and issue licenses and how often they will need to be updated. We recommend that NYS limit the number of licenses initially available and adopt a model of licensure prioritization similar to the Massachusetts model.

In addition to licensure regulations, the State will need to establish further requirements for each step of the supply chain. It is imperative to decouple the regulated marijuana program from both the alcohol and tobacco industries, thus ensuring that they are not involved in any step along the supply chain. With respect to cultivation and production, regulations will be required to control the amount and location of production (e.g., indoors or outdoors). With respect to testing, guidance will be needed for laboratories to ascertain the breakdown of THC and CBD content and to test for mold and other contaminants. Regulations will also be required to address how marijuana will be retailed, including the types of products that can be sold in the market and locations of sales dispensaries (e.g., distance from schools, churches, etc.). Alaska, Massachusetts, and Nevada have established regulations to ensure that substances would not be plainly visible to the public from outside retail establishments.

Additionally, regulations will be required to determine what will be permitted for specific products. This includes detailed discussion regarding the appropriate amount of THC per serving size and what types of products would be permitted (flower, vaporization, edibles, tinctures, topicals, etc.). We recommend that NYS place limits on the amount of THC and the types of products offered for sale. We recommend that the amount of marijuana that may be purchased be limited to a one-ounce maximum. Other states, such as Oregon, have conducted focus groups and established guidance solely regarding the specifics of product packaging. Requirements regarding child proofing and tamper proofing will also need to be determined. To ensure packaging is not attractive to minors, we recommend that the program include guidelines to standardize the industry (such as avoiding cartoon-like imagery or requiring that any products that may look like candy be contained in opaque packaging). We also recommend that processes be established to approve packaging for marijuana products, and guidelines will be required to set forth specific packaging parameters.

Another key substantive policy area is the taxation of regulated marijuana products, which has many implications as taxation dictates the price of the products in the regulated market, influencing consumer behavior. As discussed in the Economic Estimates section of this report, price point is crucial because if it is too high, consumers will not transition from the unregulated market to the regulated market.\textsuperscript{129} Decisions will need to be made about where in the production chain excise taxes are placed and to what extent each level of production should be taxed. We recommend that the state begin with low taxation (e.g. between 7 and 10 percent.) NYS will need to determine if vertical integration will be permitted. NYS should consider lessons learned in other states. Washington State initially had higher tax rates and restructured their taxation after the realization that the taxes were cost prohibitive. Colorado, Washington, and Oregon have all taken steps to reduce their marijuana tax rates.\textsuperscript{130} Ensuring that NYS has adequate pricing will require careful and intentional deliberations with numerous stakeholders. The economic estimates in this assessment are based on numerous assumptions and are intended to provide a framework for further discussion.

A regulated marijuana program should ensure that workforce needs are met. Safe working environments should be established for individuals

\textsuperscript{xiii} Washington State defines canopy as the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant
in the new regulated market. Labor protections will need to address both cultivation and retail and include special considerations for indoor and outdoor cultivation. Businesses in Colorado’s marijuana industry must comply with the regulations and recordkeeping requirements of the Occupational Safety and Health Administration (OSHA). Colorado’s Guide to Worker Safety and Health in the Marijuana Industry: 2017 delineates the federal OSHA requirements, state regulations, and a best practice guide to ensure worker safety. Specific protections apply to different classifications of occupations including cultivators, trimmers, technicians, administrators, edible producers, and transporters. Colorado outlined protections against biological hazards (i.e., mold and allergens) and chemical hazards (i.e., pesticides, nutrients, and disinfectants) and laid out specific workers’ rights for individuals working in any component of the marijuana industry. We recommend that NYS similarly adopt regulations regarding training for individuals working in the industry.

A regulated marijuana program should consider mandating data collection and evaluation of its impact. Information obtained from ongoing studies should be used to further refine the State’s regulatory approach and inform program design so NYS can respond to needs as they arise. NYS has an opportunity to be a leader in monitoring the use of marijuana and gathering information about benefits and potential harm to inform the implementation of harm reduction strategies. We recommend that NYS establish a comprehensive system of data collection at point-of-sale.

A regulated marijuana program will require detailed guidance in the areas of public safety and education. Enforcement regulations will need to be created for general oversight, inspection, and penalties for participants who engage in unregulated sale or use. We recommend that NYS create statewide educational campaigns to continue ensuring the safety of the State’s roads and public safety messaging that is targeted to specific populations. Peer education will be essential, and it will be important to develop tools to assist parents in communicating with their children. Other states with regulated marijuana programs have established educational campaigns to notify the public of the details of the legislative change and educate them about marijuana use. NYS should consider creating statewide educational campaigns to prepare the public and inform consumers before dispensaries are operational. As noted in the Education section of this report, educational campaigns should consider key populations, such as individuals with or at risk for severe mental illness, youth, and pregnant and breastfeeding women.

We recommend NYS address prior criminal convictions for marijuana possession. Some jurisdictions are working toward expunging previous drug-related offenses, such as San Francisco and San Diego, where district attorneys announced that they will review, recall, resentence, potentially dismiss, and seal misdemeanor and felony marijuana convictions. Seattle’s district attorney made a similar announcement. This will have lasting social justice implications, as there has been disproportionate criminalization of certain racial and ethnic groups. We recommend NYS expunge the criminal records of individuals with marijuana-related offenses.

All states that have legalized have had to address specific and important issues when implementing a regulated marijuana program. An analysis of each state’s decisions with respect to the detailed regulations they have issued may be found in Appendix C. Similar regulations and guidance will need to be created in NYS through careful planning with policy makers and subject matter experts if NYS moves toward implementation.

It is important to understand that effective implementation and regulation will be an ongoing process that will take continued work from State and local officials. Every step of a regulated marijuana program will require planning and regulation. Thoughtful input will be required on the development of legislation, regulations, policies, and implementation strategies. In addition, precise technical guidelines will need to be developed in public health, public safety, and consumer protection to ultimately ensure the program is established with a harm reduction approach.
Participation of stakeholders in developing the parameters of a regulated marijuana program is important. Such stakeholders could include subject matter experts from throughout the State and government representatives of public health, mental health, substance use, taxation and finance, law enforcement, and public safety. Moving forward, it is recommended that NYS form a workgroup of subject matter experts with relevant public health expertise to consider the nuances of a regulated marijuana program, review existing legislation, and make recommendations to the State that address each of these areas in a manner that is consistent with the harm reduction goal.

The process of legalization and regulation will be dynamic. Legalization efforts should be clear on the goals they are setting out to achieve for the people of NYS. Policymakers will need to balance competing priorities in a way that maximizes program effectiveness. Policymakers can learn lessons from approaches taken by other states and study what has worked and what has not.

There are tradeoffs inherent to the transition from an unregulated to a regulated market. It is imperative that a regulated marijuana program contain all necessary safeguards and measures to limit access for individuals under 21, minimize impaired driving, provide education and tailored messaging to different populations, and connect people to treatment if needed. During this transition, the purpose of public policy will be to reduce the harms associated with marijuana criminalization, minimize the harms associated with a regulated marijuana program, and maximize the benefits of regulation.
VI. Conclusion

The positive effects of a regulated marijuana market in NYS outweigh the potential negative impacts. Areas that may be a cause for concern can be mitigated with regulation and proper use of public education that is tailored to address key populations. Incorporating proper metrics and indicators will ensure rigorous and ongoing evaluation.

- Numerous NYS agencies and subject matter experts in the fields of public health, mental health, substance use, public safety, transportation, and economics worked in developing this assessment. No insurmountable obstacles to regulation of marijuana were raised.

- Regulation of marijuana benefits public health by enabling government oversight of the production, testing, labeling, distribution, and sale of marijuana. The creation of a regulated marijuana program would enable NYS to better control licensing, ensure quality control and consumer protection, and set age and quantity restrictions.

- NYS would be one of the largest potential regulated marijuana markets in the United States. As such, there is potential for substantial tax revenue in NYS, which can be used to help support program initiatives in areas such as public health, education, transportation, research, law enforcement and workforce development. Tax revenues can also support community reinvestment in health care and employment.

- Historically, marijuana criminalization has had a profound impact on communities of color and has led to disproportionate targeting of certain populations for arrest and prosecution. The over-prosecution of marijuana has significant negative economic, health, and safety impacts that have disproportionately affected low-income communities of color. Legalization of marijuana will address this important social justice issue.

- The development of this assessment involved discussions of numerous issues that relate to implementation of a legalized marijuana program, rather than the impact. Much of the impact of a regulated marijuana program is contingent on program implementation. While some implementation issues have been described in this assessment, further exploration will be required should NYS move toward legalization.
Appendix A: Figures, Graphs and Charts

**Figure 1: Map of State Marijuana Policies**

![Map of State Marijuana Policies](image)

Nine States and the District of Columbia allow recreational sales of marijuana as well as medical; an additional 19 allow only medical use. Others allow on for the sale of CBD, and extract that is non-psychoactive.

*Source: “U.S. Legalized Cannabis Map.” Cannabis Compliance, tgunthergroup.com/2017-cannabis-map/.*
Figure 2: Past Month Marijuana Use, Aged 12-17, New York


Figure 3: Past Month Marijuana Use, Aged 18+, New York

Figure 4: Colorado Economic Development and Job Creation

Employment in Colorado Caused by Legalized Marijuana

2014
- Direct (FTE) employment created: 9,936 jobs
- Indirect employment created: 2,285 jobs
- Induced employment created: 1,987 jobs

Total: 14,209 jobs

2015
- Direct (FTE) employment created: 12,591 jobs
- Indirect employment created: 2,896 jobs
- Induced employment created: 2,518 jobs

Total: 18,005 jobs

Number of direct employees by industry segment (FTE):
- Retail operations: 4,407 jobs
- Administration: 2,770 jobs
- Manufacturing: 2,015 jobs
- Management: 1,889 jobs
- Agriculture specialists: 1,511 jobs

Source: Marijuana Policy Group
Figure 5: Marijuana Tax Revenue Usage in Colorado

- **Medical Marijuana**
  - 2.9% Sales Tax: $40.9M

- **Retail Marijuana**
  - Special Sales Tax (up to 15%): $98.3M
  - 15% Excise Tax: $71.9M

- **General Fund (90%)**
  - 28.15%-S30M: $83.6M

- **Local Governments w; Retail MJ (10%)**
  - $14.8M

- **Marijuana Cash Fund**
  - 71.8%

- **State Public School Fund**
  - $30M

- **Public School Permanent Fund**
  - $31.9M

- **BEST Fund School Construction (First $40M)**

- **$118M Appropriation:**
  - Agriculture, Education, Higher Education, Healthcare Services, Labor & Employment, Law Enforcement, Local Affairs, Public Health & Environment, Public Safety, Governor’s Office Regulatory Programs

- **Education & Public Health - $41M**
  - School Health Professional’s Grant, Good to Know Campaign, Healthy Kids Colorado Survey, Substance Abuse Prevention

- **Department of Human Services - $32M**
  - Substance Abuse, Mental Health, Youth Prevention & Treatment Services

- **Construction/Local - $16.5M**
  - Affordable Housing, Local Construction, Local Gov't Retail MJ Impact Grant Programs

- **Law Enforcement, Public Safety, Transportation - $2.7M**
  - Including Marijuana Impaired Driving Prevention

- **Local Law Enforcement - $5.9M**
  - Local affairs for enforcement of illegal markets

- **Marijuana Enforcement & Licensing**
  - $13.3M (separately funded)

Retail marijuana was taxed at 2.9%, but is not currently taxed at the state sales tax, due to a special sales tax increase from 10% to 15% effective July 1, 2017. This number includes Retail sales tax.

Source: Colorado Legislative Staff Colorado Economic Forecast 2017
Appendix B: Annotated Bibliography

Introduction

The annotated bibliography that follows contains a select group of journal articles related to marijuana use and the impact of legalization. This bibliography was developed by conducting an extensive search of English-language literature indexed in PubMed (http://pubmed.gov), an online database of biomedical journal citations and abstracts created by the U.S. National Library of Medicine and Google Scholar, an online search engine that provides journal articles and research from academic publishers, professional societies, universities, and other websites.

Many of the articles selected contain overlapping information touching on some or all of the following focus areas: Health, Criminal Justice and Public Safety, Economic, and Education.

Health


Background: Abusive alcohol use has well-established health risks including causing liver disease (ALD) characterized by alcoholic steatosis (AS), steatohepatitis (AH), fibrosis, cirrhosis (AC) and hepatocellular carcinoma (HCC). Strikingly, a significant number of individuals who abuse alcohol also use Cannabis, which has seen increased legalization globally. While cannabis has demonstrated anti-inflammatory properties, its combined use with alcohol and the development of liver disease remain unclear. Aim: The aim of this study was to determine the effects of cannabis use on the incidence of liver disease in individuals who abuse alcohol. Methods: We analysed the 2014 Healthcare Cost and Utilization Project-Nationwide Inpatient Sample (NIS) discharge records of patients 18 years and older, who had a past or current history of abusive alcohol use (n = 319 514). Using the International Classification of Disease, Ninth Edition codes, we studied the four distinct phases of progressive ALD with respect to three cannabis exposure groups: non-cannabis users (90.39%), non-dependent cannabis users (8.26%) and dependent cannabis users (1.36%). We accounted for the complex survey sampling methodology and estimated the adjusted odds ratio (AOR) for developing AS, AH, AC and HCC with respect to cannabis use (SAS 9.4). Results: Our study revealed that among alcohol users, individuals who additionally use cannabis (dependent and non-dependent cannabis use) showed significantly lower odds of developing AS, AH, AC and HCC (AOR: 0.55 [0.48-0.64], 0.57 [0.53-0.61], 0.45 [0.43-0.48] and 0.62 [0.51-0.76]). Furthermore, dependent users had significantly lower odds than non-dependent users for developing liver disease. Conclusions: Our findings suggest that cannabis use is associated with a reduced incidence of liver disease in alcoholics.


Importance: Opioid analgesic overdose mortality continues to rise in the United States, driven by increases in prescribing for chronic pain. Because chronic pain is a major indication for medical cannabis, laws that establish access to medical cannabis may change overdose mortality related to opioid analgesics in states that have
enacted them. **Objective:** To determine the association between the presence of state medical cannabis laws and opioid analgesic overdose mortality. **Design, Setting, and Participants:** A time-series analysis was conducted of medical cannabis laws and state-level death certificate data in the United States from 1999 to 2010; all 50 states were included. **Exposures:** Presence of a law establishing a medical cannabis program in the state. **Main Outcomes and Measures:** Age-adjusted opioid analgesic overdose death rate per 100 000 population in each state. Regression models were developed including state and year fixed effects, the presence of 3 different policies regarding opioid analgesics, and the state-specific unemployment rate. **Results:** Three states (California, Oregon, and Washington) had medical cannabis laws effective prior to 1999. Ten states (Alaska, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Rhode Island, and Vermont) enacted medical cannabis laws between 1999 and 2010. States with medical cannabis laws had a 24.8% lower mean annual opioid overdose mortality rate (95% CI, −37.5% to −9.5%; P = .003) compared with states without medical cannabis laws. Examination of the association between medical cannabis laws and opioid analgesic overdose mortality in each year after implementation of the law showed that such laws were associated with a lower rate of overdose mortality that generally strengthened over time: year 1 (−19.9%; 95% CI, −30.6% to −7.7%; P = .002), year 2 (−25.2%; 95% CI, −40.6% to −5.9%; P = .01), year 3 (−23.6%; 95% CI, −41.1% to −1.0%; P = .04), year 4 (−20.2%; 95% CI, −33.6% to −4.0%; P = .02), year 5 (−33.7%; 95% CI, −50.9% to −10.4%; P = .008), and year 6 (−33.3%; 95% CI, −44.7% to −19.6%; P < .001). In secondary analyses, the findings remained similar. **Conclusions and Relevance:** Medical cannabis laws are associated with significantly lower state-level opioid overdose mortality rates. Further investigation is required to determine how medical cannabis laws may interact with policies aimed at preventing opioid analgesic overdose.


**Abstract:** Opioids are commonly used to treat patients with chronic pain (CP), though there is little evidence that they are effective for long term CP treatment. Previous studies reported strong associations between passage of medical cannabis laws and decrease in opioid overdose statewide. Our aim was to examine whether using medical cannabis for CP changed individual patterns of opioid use. Using an online questionnaire, we conducted a cross-sectional retrospective survey of 244 medical cannabis patients with CP who patronized a medical cannabis dispensary in Michigan between November 2013 and February 2015. Data collected included demographic information, changes in opioid use, quality of life, medication classes used, and medication side effects before and after initiation of cannabis usage. Among study participants, medical cannabis use was associated with a 64% decrease in opioid use (n = 118), decreased number and side effects of medications, and an improved quality of life (45%). This study suggests that many CP patients are essentially substituting medical cannabis for opioids and other medications for CP treatment, and finding the benefit and side effect profile of cannabis to be greater than these other classes of medications. More research is needed to validate this finding. **Perspective:** This article suggests that using medical cannabis for CP treatment may benefit some CP patients. The reported improvement in quality of life, better side effect profile, and decreased opioid use should be confirmed by rigorous, longitudinal studies that also assess how CP patients use medical cannabis for pain management.


**Background:** Increasing rates of cannabis use among emerging adults is a growing public health problem. Intensive longitudinal data can provide information on proximal motives for cannabis use, which can inform
interventions to reduce use among emerging adults. **Method:** As part of a larger longitudinal study, patients aged 18-25 years (N=95) recruited from an urban Emergency Department completed daily text message assessments of risk behaviors for 28 days, including daily cannabis quantity and motives. Using a mixed effects linear regression model, we examined the relationships between daily quantity of cannabis consumed and motives (i.e., enhancement, social, conformity, coping, and expansion). **Results:** Participants were, on average, 22.0 years old (SD=2.2); 48.4% were male, 45.3% were African American, and 56.8% received public assistance. Results from the multi-level analysis (clustering day within individual), controlling for gender, race, and receipt of public assistance, indicated daily use of cannabis use for enhancement (β=0.27), coping (β=0.15), and/or social motives (β=0.34) was significantly associated with higher quantities of daily cannabis use; whereas expansion and conformity motives were not. **Conclusions:** Daily data show that emerging adults who use cannabis for enhancement, social, and coping motives reported using greater quantities of cannabis. Future research should examine more comprehensive cannabis motives (e.g., boredom, social anxiety, sleep) and test tailored interventions focusing on alternative cognitive/behavioral strategies to address cannabis motives.


**Abstract:** Legalization of medical marijuana has been one of the most controversial areas of state policy change over the past twenty years. However, little is known about whether medical marijuana is being used clinically to any significant degree. Using data on all prescriptions filled by Medicare Part D enrollees from 2010 to 2013, we found that the use of prescription drugs for which marijuana could serve as a clinical alternative fell significantly, once a medical marijuana law was implemented. National overall reductions in Medicare program and enrollee spending when states implemented medical marijuana laws were estimated to be $165.2 million per year in 2013. The availability of medical marijuana has a significant effect on prescribing patterns and spending in Medicare Part D.


**Importance:** Opioid-related mortality increased by 15.6% from 2014 to 2015 and increased almost 320% between 2000 and 2015. Recent research finds that the use of all pain medications (opoid and nonopioid collectively) decreases in Medicare Part D and Medicaid populations when states approve medical cannabis laws (MCLs). The association between MCLs and opioid prescriptions is not well understood. **Objective:** To examine the association between prescribing patterns for opioids in Medicare Part D and the implementation of state MCLs. **Design, Setting, and Participants:** Longitudinal analysis of the daily doses of opioids filled in Medicare Part D for all opioids as a group and for categories of opioids by state and state-level MCLs from 2010 through 2015. Separate models were estimated first for whether the state had implemented any MCL and second for whether a state had implemented either a dispensary-based or a home cultivation only-based MCL. **Main Outcomes and Measures:** The primary outcome measure was the total number of daily opioid doses prescribed (in millions) in each US state for all opioids. The secondary analysis examined the association between MCLs separately by opioid class. **Results:** From 2010 to 2015 there were 23.08 million daily doses of any opioid dispensed per year in the average state under Medicare Part D. Multiple regression analysis results found that patients filled fewer daily doses of any opioid in states with an MCL. The associations between MCLs and any opioid prescribing were statistically significant when we took the type of MCL into account: states with active dispensaries saw 3.742 million fewer daily doses filled (95% CI, -6.289 to -1.194); states with home cultivation only MCLs saw 1.792 million fewer filled daily doses (95% CI, -3.532 to -0.052). Results varied by type of opioid, with statistically significant estimated negative associations observed for hydrocodone and morphine.
Hydrocodone use decreased by 2.320 million daily doses (or 17.4%) filled with dispensary-based MCLs (95% CI, -3.782 to -0.859; P = .002) and decreased by 1.256 million daily doses (or 9.4%) filled with home-cultivation-only-based MCLs (95% CI, -2.319 to -0.193; P = .02). Morphine use decreased by 0.361 million daily doses (or 20.7%) filled with dispensary-based MCLs (95% CI, -0.718 to -0.005; P = .047).

Conclusions and Relevance: Medical cannabis laws are associated with significant reductions in opioid prescribing in the Medicare Part D population. This finding was particularly strong in states that permit dispensaries, and for reductions in hydrocodone and morphine prescriptions.


Abstract: This article delineates the current efforts of the Vermont Department of Health (VDH) to address the potential health impact of legalization and regulation of recreational marijuana for use by adults at least 21 years of age. To this end, VDH and key stakeholders developed and published a Health Impact Assessment with specific recommendations should legislation that legalized and regulated marijuana be passed into law. Although the legalization legislation failed in 2016 and was vetoed by the Governor in 2017, it is unclear what will happen in the future.


Objective: To assess the effects of use of cannabis during pregnancy on maternal and fetal outcomes. Data Sources: 7 electronic databases were searched from inception to 1 April 2014. Studies that investigated the effects of use of cannabis during pregnancy on maternal and fetal outcomes were included. Study Selection: Case-control studies, cross-sectional and cohort studies were included. Data Extraction and Synthesis: Data synthesis was undertaken via systematic review and meta-analysis of available evidence. All review stages were conducted independently by 2 reviewers. Main Outcomes and Measures: Maternal, fetal and neonatal outcomes up to 6 weeks postpartum after exposure to cannabis. Meta-analyses were conducted on variables that had 3 or more studies that measured an outcome in a consistent manner. Outcomes for which meta-analyses were conducted included: anaemia, birth weight, low birth weight, neonatal length, placement in the neonatal intensive care unit, gestational age, head circumference and preterm birth. Results: 24 studies were included in the review. Results of the meta-analysis demonstrated that women who used cannabis during pregnancy had an increase in the odds of anaemia (pooled OR (pOR)=1.36: 95% CI 1.10 to 1.69) compared with women who did not use cannabis during pregnancy. Infants exposed to cannabis in utero had a decrease in birth weight (low birth weight pOR=1.77: 95% CI 1.04 to 3.01; pooled mean difference (pMD) for birth weight=109.42 g: 38.72 to 180.12) compared with infants whose mothers did not use cannabis during pregnancy. Infants exposed to cannabis in utero were also more likely to need placement in the neonatal intensive care unit compared with infants whose mothers did not use cannabis during pregnancy (pOR=2.02: 1.27 to 3.21). Conclusions: Use of cannabis during pregnancy may increase adverse outcomes for women and their neonates. As use of cannabis gains social acceptance, pregnant women and their medical providers could benefit from health education on potential adverse effects of use of cannabis during pregnancy.


Abstract: The claim that the adverse health effects of cannabis are much less serious than those of alcohol has been central to the case for cannabis legalisation. Regulators in US states that have legalised cannabis have
adopted regulatory models based on alcohol. This paper critically examines the claim about adverse health effects and the wisdom of regulating cannabis like alcohol. First, it compares what we know about the adverse health effects of alcohol and cannabis. Second, it discusses the uncertainties about the long term health effects of sustained daily cannabis use. Third, it speculates about how the adverse health effects of cannabis may change after legalisation. Fourth, it questions the assumption that alcohol provides the best regulatory model for a legal cannabis market. Fifth, it outlines the major challenges in regulating cannabis under the liberal alcohol-like regulatory regimes now being introduced.


A major challenge in assessing the public health impact of legalizing cannabis use in Colorado and Washington State is the absence of any experience with legal cannabis markets. The Netherlands created a de facto legalized cannabis market for recreational use, but policy analysts disagree about how it has affected rates of cannabis use. Some US states have created de facto legal supply of cannabis for medical use. So far this policy does not appear to have increased cannabis use or cannabis-related harm. Given experience with more liberal alcohol policies, the legalization of recreational cannabis use is likely to increase use among current users. It is also likely that legalization will increase the number of new users among young adults but it remains uncertain how many may be recruited, within what time frame, among which groups within the population, and how many of these new users will become regular users.


Importance: Laws and attitudes toward marijuana in the United States are becoming more permissive but little is known about whether the prevalence rates of marijuana use and marijuana use disorders have changed in the 21st century. Objective: To present nationally representative information on the past-year prevalence rates of marijuana use, marijuana use disorder, and marijuana use disorder among marijuana users in the US adult general population and whether this has changed between 2001-2002 and 2012-2013. Design, Setting, and Participants: Face-to-face interviews conducted in surveys of 2 nationally representative samples of US adults: the National Epidemiologic Survey on Alcohol and Related Conditions (data collected April 2001-April 2002; N = 43,093) and the National Epidemiologic Survey on Alcohol and Related Conditions-III (data collected April 2012-June 2013; N = 36,309). Data were analyzed March through May 2015. Main Outcomes and Measures: Past-year marijuana use and DSM-IV marijuana use disorder (abuse or dependence). Results: The past-year prevalence of marijuana use was 4.1% (SE, 0.15) in 2001-2002 and 9.5% (SE, 0.27) in 2012-2013, a significant increase (P < .05). Significant increases were also found across demographic subgroups (sex, age, race/ethnicity, education, marital status, income, urban/rural, and region). The past-year prevalence of DSM-IV marijuana use disorder was 1.5% (0.08) in 2001-2002 and 2.9% (SE, 0.13) in 2012-2013 (P < .05). With few exceptions, increases in the prevalence of marijuana use disorder between 2001-2002 and 2012-2013 were also statistically significant (P < .05) across demographic subgroups. However, the prevalence of marijuana use disorder among marijuana users decreased significantly from 2001-2002 (35.6%; SE, 1.37) to 2012-2013 (30.6%; SE, 1.04). Conclusions: The prevalence of marijuana use more than doubled between 2001-2002 and 2012-2013, and there was a large increase in marijuana use disorders during that time. While not all marijuana users experience problems, nearly 3 of 10 marijuana users manifested a marijuana use disorder in 2012-2013. Because the risk for marijuana use disorder did not increase among users, the increase in prevalence of marijuana use disorder is owing to an increase in prevalence of users in the US adult population. Given changing laws and attitudes toward marijuana, a balanced presentation of the likelihood of adverse consequences of marijuana use to policy makers, professionals, and the public is needed.

Introduction: Recent years have witnessed increased attention to how cannabis use impacts the use of other psychoactive substances. The present study examines the use of cannabis as a substitute for alcohol, illicit substances and prescription drugs among 473 adults who use cannabis for therapeutic purposes.

Design and Methods: The Cannabis Access for Medical Purposes Survey is a 414-question cross-sectional survey that was available to Canadian medical cannabis patients online and by hard copy in 2011 and 2012 to gather information on patient demographics, medical conditions and symptoms, patterns of medical cannabis use, cannabis substitution and barriers to access to medical cannabis.

Results: Substituting cannabis for one or more of alcohol, illicit drugs or prescription drugs was reported by 87% (n = 410) of respondents, with 80.3% reporting substitution for prescription drugs, 51.7% for alcohol, and 32.6% for illicit substances. Respondents who reported substituting cannabis for prescription drugs were more likely to report difficulty affording sufficient quantities of cannabis, and patients under 40 years of age were more likely to substitute cannabis for all three classes of substance than older patients.

Conclusions: The finding that cannabis was substituted for all three classes of substances suggests that the medical use of cannabis may play a harm reduction role in the context of use of these substances, and may have implications for abstinence-based substance use treatment approaches. Further research should seek to differentiate between biomedical substitution for prescription pharmaceuticals and psychoactive drug substitution, and to elucidate the mechanisms behind both.


Abstract: Cannabis use is common and increasing among women in the United States. State policies are changing with a movement towards decriminalization and legalization. We explore the implications of cannabis liberalization for maternal and child health. Most women who use cannabis quit or cut back during pregnancy. Although women are concerned about the possible health effects of cannabis, providers do a poor job of counseling. There is a theoretical potential for cannabis to interfere with neurodevelopment, however human data have not identified any long-term or long lasting meaningful differences between children exposed in utero to cannabis and those not. Scientifically accurate dissemination of cannabis outcomes data is necessary. Risks should be neither overstated nor minimized, and the legal status of a substance should not be equated with safety. Decreasing or stopping use of all recreational drugs should be encouraged during pregnancy. Providers must recognize that even in environments where cannabis is legal, pregnant women may end up involved with Child Protective Services. In states where substance use is considered child abuse this may be especially catastrophic. Above all, care for pregnant women who use cannabis should be non-punitive and grounded in respect for patient autonomy.


Background: Marijuana is often smoked via a filterless cigarette and contains similar chemical makeup as smoked tobacco. There are few publications describing usage patterns and respiratory risks in older adults or in those with chronic obstructive pulmonary disease (COPD). Methods: A cross-sectional analysis of current and
former tobacco smokers from the Subpopulations and Intermediate Outcome Measures in COPD Study (SPIROMICS) study assessed associations between marijuana use and pulmonary outcomes. Marijuana use was defined as never, former (use over 30 days ago), or current (use within 30 days). Respiratory health was assessed using quantitative high-resolution computed tomography (HRCT) scans, pulmonary function tests and questionnaire responses about respiratory symptoms. **Results:** Of the total 2304 participants, 1130 (49%) never, 982 (43%) former, and 192 (8%) current marijuana users were included. Neither current nor former marijuana use was associated with increased odds of wheeze (odds ratio [OR] 0.87, OR 0.97), cough (OR 1.22; OR 0.93) or chronic bronchitis (OR 0.87; OR 1.00) when compared to never users. Current and former marijuana users had lower quantitative emphysema (P=0.004, P=0.03), higher percent predicted forced expiratory volume in 1 second (FEV₁%) (P<0.001, P<0.001), and percent predicted forced vital capacity (FVC%) (p<0.001, P<0.001). Current marijuana users exhibited higher total tissue volume (P=0.003) while former users had higher air trapping (P<0.001) when compared to never marijuana users. **Conclusions:** Marijuana use was found to have little to no association with poor pulmonary health in older current and former tobacco smokers after adjusting for covariates. Higher forced expiratory volume in 1 second (FEV₁) and forced vital capacity (FVC) was observed among current marijuana users. However, higher joint years was associated with more chronic bronchitis symptoms (e.g., wheeze), and this study cannot determine if long-term heavy marijuana smoking in the absence of tobacco smoking is associated with lung symptoms, airflow obstruction, or emphysema, particularly in those who have never smoked tobacco cigarettes.


**Abstract:** Marijuana smoke contains many of the same constituents as tobacco smoke, but whether it has similar adverse effects on pulmonary function is unclear. **Objective:** To analyze associations between marijuana (both current and lifetime exposure) and pulmonary function. **Design:** The Coronary Artery Risk Development in Young Adults (CARDIA) study, a longitudinal study collecting repeated measurements of pulmonary function and smoking over 20 years (March 26, 1985-August 19, 2006) in a cohort of 5115 men and women in 4 US cities. Mixed linear modeling was used to account for individual age-based trajectories of pulmonary function and other covariates including tobacco use, which was analyzed in parallel as a positive control. Lifetime exposure to marijuana joints was expressed in joint-years, with 1 joint-year of exposure equivalent to smoking 365 joints or filled pipe bowls. **Main Outcome:** Forced expiratory volume in the first second of expiration (FEV₁) and forced vital capacity (FVC). **Results:** Marijuana exposure was nearly as common as tobacco exposure but was mostly light (median, 2-3 episodes per month). Tobacco exposure, both current and lifetime, was linearly associated with lower FEV₁ and FVC. In contrast, the association between marijuana exposure and pulmonary function was nonlinear (P < .001): at low levels of exposure, FEV₁ increased by 13 mL/joint-year (95% CI, 6.4 to 20; P < .001) and FVC by 20 mL/joint-year (95% CI, 12 to 27; P < .001), but at higher levels of exposure, these associations leveled or even reversed. The slope for FEV₁ was -2.2 mL/joint-year (95% CI, -4.6 to 0.3; P = .08) at more than 10 joint-years and -3.2 mL per marijuana smoking episode/mo (95% CI, -5.8 to -0.6; P = .02) at more than 20 episodes/mo. With very heavy marijuana use, the net association with FEV₁ was not significantly different from baseline, and the net association with FVC remained significantly greater than baseline (eg, at 20 joint-years, 76 mL [95% CI, 34 to 117]; P < .001). **Conclusion:** Occasional and low cumulative marijuana use was not associated with adverse effects on pulmonary function.

Abstract: Recent work finds that medical marijuana laws reduce the daily doses filled for opioid analgesics among Medicare Part-D and Medicaid enrollees, as well as population-wide opioid overdose deaths. We replicate the result for opioid overdose deaths and explore the potential mechanism. The key feature of a medical marijuana law that facilitates a reduction in overdose death rates is a relatively liberal allowance for dispensaries. As states have become more stringent in their regulation of dispensaries, the protective value generally has fallen. These findings suggest that broader access to medical marijuana facilitates substitution of marijuana for powerful and addictive opioids.


Background: Cannabis use is common, and associated with adverse health outcomes. 'Routes of administration' (ROAs) for cannabis use have increasingly diversified, in part influenced by developments towards legalization. This paper sought to review data on prevalence and health outcomes associated with different ROAs. Methods: This scoping review followed a structured approach. Electronic searches for English-language peer-reviewed publications were conducted in primary databases (i.e., MEDLINE, EMBASE, PsycINFO, Google Scholar) based on pertinent keywords. Studies were included if they contained information on prevalence and/or health outcomes related to cannabis use ROAs. Relevant data were screened, extracted and narratively summarized under distinct ROA categories. Results: Overall, there is a paucity of rigorous and high-quality data on health outcomes from cannabis ROAs, especially in direct and quantifiable comparison. Most data exist on smoking combusted cannabis, which is associated with various adverse respiratory system outcomes (e.g., bronchitis, lung function). Vaporizing natural cannabis and ingesting edibles appear to reduce respiratory system problems, but may come with other risks (e.g., delayed impairment, use 'normalization'). Vaporizing cannabis concentrates can result in distinct acute risks (e.g., excessive impairment, injuries). Other ROAs are uncommon and under-researched. Conclusions: ROAs appear to distinctly influence health outcomes from cannabis use, yet systematic data for comparative assessments are largely lacking; these evidence gaps require filling. Especially in emerging legalization regimes, ROAs should be subject to evidence-based regulation towards improved public health outcomes. Concretely, vaporizers and edibles may offer potential for reduced health risks, especially concerning respiratory problems. Adequate cannabis product regulation (e.g., purity, labeling, THC-restrictions) is required to complement ROA-based effects.


Background: The Canadian federal government has committed to legalize, regulate, and restrict non-medical cannabis use by adults in 2018. To prepare for monitoring the health, social and economic impacts of this policy change, a greater understanding of the long-term trends in the prevalence of cannabis use in Canada is needed. Methods: Nine national surveys of the household population collected information about cannabis use during the period from 1985 through 2015. These surveys are examined for comparability. The data are used to estimate past-year (current) cannabis use (total, and by sex and age). Based on the most comparable data, trends in use from 2004 through 2015 are estimated. Results: From 1985 through 2015, past-year cannabis use increased overall. Analysis of comparable data from the Canadian Tobacco Use Monitoring Survey and the Canadian Tobacco, Alchohol and Drugs Survey for the 2004-to-2015 period suggests that use was stable among 15- to 17-year-old males, decreased among 15- to 17-year-old females and among 18- to 24-year-olds (both sexes), and increased among people aged 25 or older. Discussion: According to data from national population surveys, since 2004, cannabis use was stable or decreased among youth, and rose among adults. Results highlight the importance of consistent monitoring of use in the pre-and post-legalization periods.

**Background:** Chronic pain is common in the United States and prescribed opioid analgesics use for noncancer pain has increased dramatically in the past two decades, possibly accounting for the current opioid addiction epidemic. Co-morbid drug use in those prescribed opioid analgesics is common, but there are few data on polysubstance use patterns. **Objective:** We explored patterns of use of cigarette, alcohol, and illicit drugs in HIV-infected people with chronic pain who were prescribed opioid analgesics. **Methods:** We conducted a secondary data analysis of screening interviews conducted as part of a parent randomized trial of financial incentives to improve HIV outcomes among drug users. In a convenience sample of people with HIV and chronic pain, we collected self-report data on demographic characteristics; pain; patterns of opioid analgesic use (both prescribed and illicit); cigarette, alcohol, and illicit drug use (including cannabis, heroin, and cocaine) within the past 30 days; and current treatment for drug use and HIV. **Results:** Almost half of the sample of people with HIV and chronic pain reported current prescribed opioid analgesic use (N = 372, 47.1%). Illicit drug use was common (N = 505, 63.9%), and cannabis was the most commonly used illicit substance (N = 311, 39.4%). In multivariate analyses, only cannabis use was significantly associated with lower odds of prescribed opioid analgesic use (adjusted odds ratio = 0.57; 95% confidence interval: 0.38–0.87). **Conclusions/Importance:** Our data suggest that new medical cannabis legislation might reduce the need for opioid analgesics for pain management, which could help to address adverse events associated with opioid analgesic use.


The practice now known as “dabbing” appears to be quickly proliferating as a fashionable way to use marijuana in the United States. Dabbing is the inhalation of a concentrated tetrahydrocannabinol (THC) product created through butane extraction. The use of butane hash oil (BHO) products and the modification of cannabis more generally are not new phenomena, but dabbing has recently moved from relative obscurity to the headlines, leaving cannabis aficionados, adolescents, and parents curious about its effects. Physicians and other health care professionals need to be prepared for discussions about the effects of dabbing to minimize potential harms, particularly because recent marijuana policy changes likely have facilitated youth access to “dabs”.


**Objective:** The authors investigated whether the transition from licit drug use to marijuana use is determined by particular risk factors, as specified by the gateway hypothesis. They also evaluated the accuracy of the "gateway sequence" (illicit drug use following licit drugs) for predicting a diagnosis of substance use disorder. **Method:** Boys who consumed licit drugs only (N=99), boys who consumed licit drugs and then transitioned to marijuana use (gateway sequence) (N=97), and boys who used marijuana before using licit substances (alternative sequence) (N=28) were prospectively studied from ages 10-12 years through 22 years to determine whether specific factors were associated with each drug use pattern. The groups were compared on 35 variables measuring psychological, family, peer, school, and neighborhood characteristics. In addition, the utility of the gateway and alternative sequences in predicting substance use disorder was compared to assess their clinical informativeness. **Results:** Twenty-eight (22.4%) of the participants who used marijuana did not exhibit the gateway sequence, thereby demonstrating that this pattern is not invariant in drug-using youths. Among youths who did exhibit the gateway pattern, only delinquency was more strongly related to marijuana use than licit drug use. Specific risk factors associated with transition from licit to illicit drugs were not revealed. The
alternative sequence had the same accuracy for predicting substance use disorder as the gateway sequence.

**Conclusions:** Proneness to deviancy and drug availability in the neighborhood promote marijuana use. These findings support the common liability model of substance use behavior and substance use disorder.


In light of the rapidly shifting landscape regarding the legalization of marijuana for medical and recreational purposes, patients may be more likely to ask physicians about its potential adverse and beneficial effects on health. The popular notion seems to be that marijuana is a harmless pleasure, access to which should not be regulated or considered illegal. Currently, marijuana is the most commonly used “illicit” drug in the United States, with about 12% of people 12 years of age or older reporting use in the past year and particularly high rates of use among young people. The most common route of administration is inhalation. The greenish-gray shredded leaves and flowers of the Cannabis sativa plant are smoked (along with stems and seeds) in cigarettes, cigars, pipes, water pipes, or “blunts” (marijuana rolled in the tobacco-leaf wrapper from a cigar). Hashish is a related product created from the resin of marijuana flowers and is usually smoked (by itself or in a mixture with tobacco) but can be ingested orally. Marijuana can also be used to brew tea, and its oil-based extract can be mixed into food products.


**Background:** A staggering number of Americans are dying from overdoses attributed to prescription opioid medications (POMs). In response, states are creating policies related to POM harm reduction strategies, overdose prevention, and alternative therapies for pain management, such as cannabis (medical marijuana). However, little is known about how the use of cannabis for pain management may be associated with POM use.

**Purpose:** The purpose of this article is to examine state medical cannabis (MC) use laws and policies and their potential association with POM use and related harms. **Methods:** A systematic literature review was conducted to explore United States policies related to MC use and the association with POM use and related harms. Medline, PubMed, CINAHL, and Cochrane databases were searched to identify peer-reviewed articles published between 2010 and 2017. Using the search criteria, 11,513 records were identified, with 789 abstracts reviewed, and then 134 full-text articles screened for eligibility. **Findings:** Of 134 articles, 10 articles met inclusion criteria. Four articles were cross-sectional online survey studies of MC substitution for POM, six were secondary data analyses exploring state-level POM overdose fatalities, hospitalizations related to MC or POM harms, opioid use disorder admissions, motor vehicle fatalities, and Medicare and Medicaid prescription cost analyses. The literature suggests MC laws could be associated with decreased POM use, fewer POM-related hospitalizations, lower rates of opioid overdose, and reduced national health care expenditures related to POM overdose and misuse. However, available literature on the topic is sparse and has notable limitations. **Conclusions:** Review of the current literature suggests states that implement MC policies could reduce POM-associated mortality, improve pain management, and significantly reduce health care costs. However, MC research is constrained by federal policy restrictions, and more research related to MC as a potential alternative to POM for pain management, MC harms, and its impact on POM-related harms and health care costs should be a priority of public health, medical, and nursing research.

Abstract: Over 22 million Americans are current users of marijuana; half of US states allow medical marijuana, and several allow recreational marijuana. The objective of this study was to evaluate the impact marijuana has on hospitalizations, emergency department (ED) visits, and regional poison center (RPC) calls in Colorado, a medical and recreational marijuana state. This is a retrospective review using Colorado Hospital Association hospitalizations and ED visits with marijuana-related billing codes, and RPC marijuana exposure calls. Legalization of marijuana in Colorado has been associated with an increase in hospitalizations, ED visits, and RPC calls linked with marijuana exposure. From 2000 to 2015, hospitalization rates with marijuana-related billing codes increased from 274 to 593 per 100,000 hospitalizations in 2015. Overall, the prevalence of mental illness among ED visits with marijuana-related codes was five-fold higher (5.07, 95% CI: 5.0, 5.1) than the prevalence of mental illness without marijuana-related codes. RPC calls remained constant from 2000 through 2009. However, in 2010, after local medical marijuana policy liberalization, the number of marijuana exposure calls significantly increased from 42 to 93; in 2014, after recreational legalization, calls significantly increased by 79.7%, from 123 to 221 (p<0.0001). The age group <17 years old also had an increase in calls after 2014. As more states legalize marijuana, it is important to address public education and youth prevention, and understand the impact on mental health disorders. Improvements in data collection and surveillance methods are needed to more accurately evaluate the public health impact of marijuana legalization.


Objective: We compare state trends in unintentional pediatric marijuana exposures, as measured by call volume to US poison centers, by state marijuana legislation status. Methods: A retrospective review of the American Association of Poison Control Centers National Poison Data System was performed from January 1, 2005, to December 31, 2011. States were classified as nonlegal if they have not passed legislation, transitional if they enacted legislation between 2005 and 2011, and decriminalized if laws passed before 2005. Our hypotheses were that decriminalized and transitional states would experience a significant increase in call volume, with more symptomatic exposures and more health care admissions than nonlegal states. Results: There were 985 unintentional marijuana exposures reported from 2005 through 2011 in children aged 9 years and younger: 496 in nonlegal states, 93 in transitional states, and 396 in decriminalized states. There was a slight male predominance, and the median age ranged from 1.5 to 2.0 years. Clinical effects varied, with neurologic effects the most frequent. More exposures in decriminalized states required health care evaluation and had moderate to major clinical effects and critical care admissions compared with exposures from nonlegal states. The call rate in nonlegal states to poison centers did not change from 2005 to 2011. The call rate in decriminalized states increased by 30.3% calls per year, and transitional states had a trend toward an increase of 11.5% per year. Conclusion: Although the number of pediatric exposures to marijuana reported to the National Poison Data System was low, the rate of exposure increased from 2005 to 2011 in states that had passed marijuana legislation.


Importance: Overprescribing of opioids is considered a major driving force behind the opioid epidemic in the United States. Marijuana is one of the potential nonopioid alternatives that can relieve pain at a relatively lower risk of addiction and virtually no risk of overdose. Marijuana legalization, including medical and adult-use marijuana laws, has made marijuana available to more Americans. Objective: To examine the association of state implementation of medical and adult-use marijuana laws with opioid prescribing rates and spending among Medicaid enrollees. Design, Setting, and Participants: This cross-sectional study used a quasi-
experimental difference-in-differences design comparing opioid prescribing trends between states that started to implement medical and adult-use marijuana laws between 2011 and 2016 and the remaining states. This population-based study across the United States included all Medicaid fee-for-service and managed care enrollees, a high-risk population for chronic pain, opioid use disorder, and opioid overdose. **Exposures:** State implementation of medical and adult-use marijuana laws from 2011 to 2016. **Main Outcomes and Measures:** Opioid prescribing rate, measured as the number of opioid prescriptions covered by Medicaid on a quarterly, per-1000-Medicaid-enrollee basis. **Results:** State implementation of medical marijuana laws was associated with a 5.88% lower rate of opioid prescribing (95% CI, -11.55% to approximately -0.21%). Moreover, the implementation of adult-use marijuana laws, which all occurred in states with existing medical marijuana laws, was associated with a 6.38% lower rate of opioid prescribing (95% CI, -12.20% to approximately -0.56%). **Conclusions and Relevance:** The potential of marijuana liberalization to reduce the use and consequences of prescription opioids among Medicaid enrollees deserves consideration during the policy discussions about marijuana reform and the opioid epidemic.


**Objectives:** The study examined sex differences in trend and clinical characteristics of cannabis use disorder (CUD) diagnosis involved hospitalizations among adult patients. **Methods:** We analyzed hospitalization data from the 2007-2011 Nationwide Inpatient Samples for patients aged 18-64 years (N = 15,114,930). Descriptive statistics were used to characterize demographic variables and to compare the proportions of CUD diagnosis and comorbid patterns between male and female hospitalizations. Logistic regressions were performed to examine the association of sex and other demographic variables with CUD diagnosis. **Results:** During the study period, 3.3% of male and 1.5% of female hospitalizations had any-listed CUD diagnoses, and both sexes presented an upward trend in the number, rate, and proportion of CUD diagnosis. Among hospitalizations for patients aged 18-25 years, about 1 in 10 males and 1 in 20 females included a CUD diagnosis, and this proportion decreased with age strata. Mental disorders accounted for the highest proportion of CUD involved inpatient hospitalizations, and female CUD involved hospitalizations included a higher proportion of mental disorders that required hospitalized care compared with male hospitalizations (41% vs 36%). In each sex group, younger age, black race, lower household income, large metropolitan residence, non-private insurance, substance use diagnosis, and mental disorders were associated with elevated odds of having CUD diagnosis. **Conclusion:** The large sample of clinical hospitalization data suggest an increased trend in CUD diagnosis and sex differences in several comorbidities with CUD-involved hospital admissions. Prevention and treatment for CUD should consider sex differences in clinical comorbidities.

**Criminal Justice and Public Safety**


**Objective:** Use of marijuana before or while driving significantly contributes to driving impairment and elevated risk of motor vehicle accidents; however, this risk behavior is common among users. Little is known about the etiology of driving while under the influence of marijuana. **Method:** Guided by social learning theory, this study examined marijuana outcome expectancies and other driving-related cognitions as predictors of the frequency of driving after smoking marijuana (DASM) and smoking marijuana while driving (SMWD). A community sample of 151 (64% male) non-treatment-seeking frequent marijuana users completed questionnaires on variables of interest. **Results:** Perceived driving-related peer norms (i.e., perception that fewer friends disapprove of DASM
and SMWD and of riding with a driver under the influence of marijuana) were associated with lower frequency of both DASM and SMWD. Perceived dangerousness of DASM was also associated with decreased frequency of DASM. **Conclusions:** Our findings suggest a range of potentially important targets for interventions intended to reduce the likelihood and frequency of driving while under the influence of marijuana.


**Objectives:** To evaluate motor vehicle crash fatality rates in the first 2 states with recreational marijuana legalization and compare them with motor vehicle crash fatality rates in similar states without recreational marijuana legalization. **Methods:** We used the US Fatality Analysis Reporting System to determine the annual numbers of motor vehicle crash fatalities between 2009 and 2015 in Washington, Colorado, and 8 control states. We compared year-over-year changes in motor vehicle crash fatality rates (per billion vehicle miles traveled) before and after recreational marijuana legalization with a difference-in-differences approach that controlled for underlying time trends and state-specific population, economic, and traffic characteristics. **RESULTS:** Pre-recreational marijuana legalization annual changes in motor vehicle crash fatality rates for Washington and Colorado were similar to those for the control states. Post-recreational marijuana legalization changes in motor vehicle crash fatality rates for Washington and Colorado also did not significantly differ from those for the control states (adjusted difference-in-differences coefficient = +0.2 fatalities/billion vehicle miles traveled; 95% confidence interval = -0.4, +0.9). **Conclusions:** Three years after recreational marijuana legalization, changes in motor vehicle crash fatality rates for Washington and Colorado were not statistically different from those in similar states without recreational marijuana legalization. Future studies over a longer time remain warranted.


**Abstract:** Reducing marijuana-impaired driving is an important part of any strategy to prevent motor vehicle traffic injuries. In Colorado, the first of eight US states and the District of Columbia to legalise marijuana for recreational use, drivers with positive tests for the presence of marijuana accounted for a larger proportion of fatal MVCs after marijuana commercialisation. The use of blood tests to screen for marijuana intoxication, in Colorado and elsewhere in the USA, poses a number of challenges. Many high-income countries use oral fluid drug testing (OF) to provide roadside evidence of marijuana intoxication. A 2009 Belgium policy implementing OF roadside testing increased true positives and decreased false positives of suspected marijuana-related driving under the influence (DUI) arrests. US policy-makers should consider using roadside OF to increase objectivity and reliability for tests used in marijuana-related DUI arrests.


**Abstract:** A movement from medical to recreational marijuana use allows for a larger base of potential users who have easier access to marijuana, because they do not have to visit a physician before using marijuana. This study examines whether changes in the density of marijuana outlets were related to violent, property, and marijuana-specific crimes in Denver, CO during a time in which marijuana outlets began selling marijuana for recreational, and not just medical, use. We collected data on locations of crimes, marijuana outlets and covariates for 481 Census block groups over 34 months (N = 16,354 space-time units). A Bayesian Poisson space-time model assessed statistical relationships between independent measures and crime counts within "local"
Census block groups. We examined spatial "lag" effects to assess whether crimes in Census block groups adjacent to locations of outlets were also affected. Independent of the effects of covariates, densities of marijuana outlets were unrelated to property and violent crimes in local areas. However, the density of marijuana outlets in spatially adjacent areas was positively related to property crime in spatially adjacent areas over time. Further, the density of marijuana outlets in local and spatially adjacent blocks groups was related to higher rates of marijuana-specific crime. This study suggests that the effects of the availability of marijuana outlets on crime do not necessarily occur within the specific areas within which these outlets are located, but may occur in adjacent areas. Thus studies assessing the effects of these outlets in local areas alone may risk underestimating their true effects.


**Background:** Driving under the influence of marijuana is a serious traffic safety concern in the United States. Delta 9-tetrahydrocannabinol (THC) is the main active compound in marijuana. Although blood THC testing is a more accurate measure of THC-induced impairment, measuring THC in oral fluid is a less intrusive and less costly method of testing. **Methods:** We examined whether the oral fluid THC test can be used as a valid alternative to the blood THC test using a sensitivity and specificity analysis and a logistic regression, and estimate the quantitative relationship between oral fluid THC concentration and blood THC concentration using a correlation analysis and a linear regression on the log-transformed THC concentrations. We used data from 4596 drivers who participated in the 2013 National Roadside Survey of Alcohol and Drug Use by Drivers and for whom THC testing results from both oral fluid and whole blood samples were available. **Results:** Overall, 8.9% and 9.4% of the participants tested positive for THC in oral fluid and whole blood samples, respectively. Using blood test as the reference criterion, oral fluid test for THC positivity showed a sensitivity of 79.4% (95% CI: 75.2%, 83.1%) and a specificity of 98.3% (95% CI: 97.9%, 98.7%). The log-transformed oral fluid THC concentration accounted for about 29% of the variation in the log-transformed blood THC concentration. That is, there is still 71% of the variation in the log-transformed blood THC concentration unexplained by the log-transformed oral fluid THC concentration. Back-transforming to the original scale, we estimated that each 10% increase in the oral fluid THC concentration was associated with a 2.4% (95% CI: 2.1%, 2.8%) increase in the blood THC concentration. **Conclusions:** The oral fluid test is a highly valid method for detecting the presence of THC in the blood but cannot be used to accurately measure the blood THC concentration.


**Abstract:** This paper shows that active police enforcement of civic norms against marijuana smoking in public settings has influenced the locations where marijuana is smoked. It has subtly influenced the various marijuana etiquettes observed in both public and private settings. The ethnographic data reveal the importance of informal sanctions; most marijuana consumers report compliance with etiquettes mainly to avoid stigma from nonusing family, friends, and associates—they express limited concern about police and arrest.

Abstract: Driving under the influence (DUI) and DUI drugs (DUID) law enforcement (LE) cases (n = 12,082) where whole blood samples were submitted to ChemaTox Laboratory, Inc. in Boulder, CO, for testing were examined. Of these 12,082 cases, there were 4,235 cannabinoid screens (CS) requested. Samples that yielded a positive CS (n = 2,621) were further analyzed. A total of 1,848 samples were confirmed for Δ9-tetrahydrocannabinol (THC) after a positive CS. Due to a decrease in the confirmation limit of detection (LOD) for THC from 2 to 1 ng/mL, samples that were confirmed for THC and quantitated below 2 ng/mL (n = 250) were considered negative. After this normalization, there were 1,598 samples that were confirmed positive for THC and included in the analysis. The percentage of LE cases with requests for CS for all years was 35%, increasing from 28% in 2011 to 37% in 2013. The positivity rate of CS overall was 62% (range: 59-68% by year) with no significant change over the time frame examined. The percentage of positive CS in which THC was confirmed positive at or above 2 ng/mL (n = 1,598) increased significantly from 28% in 2011 to 65% in 2013. The mean and median THC concentrations were 8.1 and 6.3 ng/mL, respectively (range: 2-192 ng/mL, n = 1,367). The data presented illustrate a statistically significant increase in CS that result in positive THC confirmations. Although the specific cause of this increase is not known at this time, possible ties to ongoing developments in Colorado's marijuana legislation merit further analysis.


Abstract: Marijuana has become the most commonly detected non-alcohol substance among drivers in the United States and Europe. Use of marijuana has been shown to impair driving performance and increase crash risk. Due to the lack of standardization in assessing marijuana-induced impairment and limitations of zero tolerance legislation, more jurisdictions are adopting per se laws by specifying a legal limit of Δ9-tetrahydrocannabinol (THC) at or above which drivers are prosecuted for driving under the influence of marijuana. This review examines major considerations when developing these threshold THC concentrations and specifics of legal THC limits for drivers adopted by different jurisdictions in the United States and other countries.

Economic


Background: A valid measure of the relative economic value of marijuana is needed to characterize individual variation in the drug’s reinforcing value and inform evolving national marijuana policy. Relative drug value (demand) can be measured via purchase tasks, and demand for alcohol and cigarettes has been associated with craving, dependence, and treatment response. This study examined marijuana demand with a marijuana purchase task (MPT). Methods: The 22-item self-report MPT was administered to 99 frequent marijuana users (37.4% female, 71.5% marijuana use days, 15.2% cannabis dependent). Results: Pearson correlations indicated a negative relationship between intensity (free consumption) and age of initiation of regular use (r=-0.34, p<0.001), and positive associations with use days (r=0.26, p<0.05) and subjective craving (r=0.43, p<0.001). Omax (maximum expenditure) was positively associated with use days (r=0.29, p<0.01) and subjective craving (r=0.27, p<0.01). Income was not associated with demand. An exponential demand model provided an excellent fit to the data across users (R(2)=0.99). Group comparisons based on presence or absence of DSM-IV cannabis dependence symptoms revealed that users with any dependence symptoms showed significantly higher intensity of demand and more inelastic demand, reflecting greater insensitivity to price increases. Conclusions: These results provide support for construct validity of the MPT, indicating its sensitivity to marijuana demand as
a function of increasing cost, and its ability to differentiate between users with and without dependence symptoms. The MPT may denote abuse liability and is a valuable addition to the behavioral economic literature. Potential applications to marijuana pricing and tax policy are discussed.


Background: Obtaining or purchasing marijuana in the U.S. can be done only in certain states via a lawful market for medical or non-medical (recreational) purposes, or via an unlawful market ("black market") by home cultivation and unlicensed vendors and individuals. Given the evolving U.S. state marijuana legislation landscape, the objective of this study is to describe individuals who report buying marijuana in the past year by selected characteristics and U.S. geographical location. Methods: Using data from the 2010-2014 National Survey on Drug Use and Health (NSDUH), we conducted bivariate chi-square tests to examine sociodemographic and selected behavioral indicators associated with buying marijuana and analyzed these factors in a multivariable logistic regression model. NSDUH participants were the noninstitutionalized civilian population aged 12+ (approximately 62,100 individuals per year) who reported using marijuana in the past year (approximately 12,400 annual average). Results: A weighted estimate of approximately 18.5 million individuals aged 12+ reported buying marijuana in the past year (59% of marijuana users). Overall, buyers of marijuana were more likely to be male, report using marijuana for a greater number of days, and to meet the criteria for substance use disorder and marijuana dependence. Data showed differences of proportion of marijuana buyers by state of residence. Conclusions: Given recent changes in state laws and policies and the increased demand for marijuana products, continued monitoring of the U.S. marijuana market in coming years is important in order to understand consumption and buying patterns among at-risk segments of the population, especially youth.


Abstract: Following the legalization and regulation of marijuana for recreational purposes in states with medical markets, policymakers and researchers seek empirical evidence on how, and how fast, supply and demand changed over time. Prices are an indication of how suppliers and consumers respond to policy changes, so this study uses a difference-in-difference approach to exploit the timing of policy implementation and identify the impacts on marijuana prices 4-5 months after markets opened. This study uses unique longitudinal survey data of prices paid by consumers and a web-scraped dataset of dispensary prices advertised online for three U.S. medical marijuana states that all eventually legalized recreational marijuana. Results indicate there were no impacts on the prices paid for medical or recreational marijuana by state-representative residents within the short 4- to 5-months window following legalization. However, there were differences in how much people paid if they obtained marijuana for recreational purposes from a recreational store. Further analysis of advertised prices confirms this result, but further demonstrates heterogeneous responses in prices across types of commonly advertised strains; prices either did not change or increased depending on the strain type. A key implication of our findings is that there are both supply and demand responses at work in the opening of legalized markets, suggesting that evaluations of immediate effects may not accurately reflect the long run impact of legalization on consumption.


Background: Washington State legalized the sale of recreational cannabis in 2012. This paper describes the unfolding of the market regulatory regime in an eastern portion of the state, including field descriptions to
illustrate the setting. **Methods:** We made observations and conducted interviews of the local supply chain comprising a producer/processor, analytic facility, and retail establishments as well as querying the state director of the regulatory board. **Results:** Interviews and observations of facilities suggest an overwhelming concern for black market diversion drives state regulatory efforts. The ongoing dialogue between market actors and the state has resulted in a more equitable distribution of profits at different stages in the process. State safety regulations have thus far been shifted to independent laboratories. Banks and insurance companies have slowly begun making inroads into the industry, despite federal prohibition. **Conclusion:** The law was conceived as a social justice remedy, but the bulk of the legal and regulatory activity surrounds cannabis marketplace management. This has been characterized by concerns for black market diversion, producer/processor profits, and a hands-off approach to safety regulation. Minor cannabis violations as a pathway to criminal justice system involvement have been reduced substantially but disproportionate enforcement upon racial/ethnic minorities continues.


**Aims:** To date there has been limited analysis of the economic costs and benefits associated with cannabis legalisation. This study redresses this gap. A cost benefit analysis of two cannabis policy options the status quo (where cannabis use is illegal) and a legalised—regulated option was conducted. **Method:** A cost benefit analysis was used to value the costs and benefits of the two policies in monetary terms. Costs and benefits of each policy option were classified into five categories (direct intervention costs, costs or cost savings to other agencies, benefits or lost benefits to the individual or the family, other impacts on third parties, and adverse or spill over events). The results are expressed as a net social benefit (NSB). **Findings:** The mean NSB per annum from Monte Carlo simulations (with the 5 and 95 percentiles) for the status quo was $294.6 million AUD ($201.1 to $392.7 million) not substantially different from the $234.2 million AUD ($136.4 to $331.1 million) for the legalised—regulated model which excludes government revenue as a benefit. When government revenue is included, the NSB for legalised—regulated is higher than for status quo. Sensitivity analyses demonstrate the significant impact of educational attainment and wellbeing as drivers for the NSB result. **Conclusion:** Examining the percentiles around the two policy options, there appears to be no difference between the NSB for these two policy options. Economic analyses are essential for good public policy, providing information about the extent to which one policy is substantially economically favourable over another. In cannabis policy, for these two options this does not appear to be the case.


**Background:** Given the growing legalization of recreational marijuana use and related increase in its prevalence in the United States, it is important to understand marijuana’s appeal. We used a behavioral economic (BE) approach to examine whether the reinforcing properties of marijuana, including “demand” for marijuana, varied as a function of its perceived quality. **Methods:** Using an innovative, Web-based marijuana purchase task (MPT), a sample of 683 young-adult recreational marijuana users made hypothetical purchases of marijuana across three qualities (low, mid and high grade) at nine escalating prices per joint, ranging from $0/free to $20. **Results:** We used nonlinear mixed effects modeling to conduct demand curve analyses, which produced separate demand indices (e.g., $P_{max}$, elasticity) for each grade of marijuana. Consistent with previous research, as the price of marijuana increased, marijuana users reduced their purchasing. Demand also was sensitive to quality, with users willing to pay more for higher quality/grade marijuana. In regression analyses, demand indices accounted for significant variance in typical marijuana use. **Conclusions:** This study illustrates the value of applying BE
theory to young adult marijuana use. It extends past research by examining how perceived quality affects demand for marijuana and provides support for the validity of a Web-based MPT to examine the appeal of marijuana. Our results have implications for policies to regulate marijuana use, including taxation based on the quality of different marijuana products.

**Education**


**Importance:** Historical shifts are occurring in marijuana policy. The effect of legalizing marijuana for recreational use on rates of adolescent marijuana use is a topic of considerable debate. **Objective:** To examine the association between the legalization of recreational marijuana use in Washington and Colorado in 2012 and the subsequent perceived harmfulness and use of marijuana by adolescents. **Design:** We used data of 253,902 students in eighth, 10th, and 12th grades from 2010 to 2015 from Monitoring the Future, a national, annual, cross-sectional survey of students in secondary schools in the contiguous United States. Difference-in-difference estimates compared changes in perceived harmfulness of marijuana use and in past-month marijuana use in Washington and Colorado prior to recreational marijuana legalization (2010-2012) with post legalization (2013-2015) vs the contemporaneous trends in other states that did not legalize recreational marijuana use in this period. **Main Outcomes:** Perceived harmfulness of marijuana use (great or moderate risk to health from smoking marijuana occasionally) and marijuana use (past 30 days). **Results:** Of the 253,902 participants, 120,590 of 245,065 (49.2%) were male, and the mean (SD) age was 15.6 (1.7) years. In Washington, perceived harmfulness declined 14.2% and 16.1% among eighth and 10th graders, respectively, while marijuana use increased 2.0% and 4.1% from 2010-2012 to 2013-2015. In contrast, among states that did not legalize recreational marijuana use, perceived harmfulness decreased by 4.9% and 7.2% among eighth and 10th graders, respectively, and marijuana use decreased by 1.3% and 0.9% over the same period. Difference-in-difference estimates comparing Washington vs states that did not legalize recreational drug use indicated that these differences were significant for perceived harmfulness (eighth graders: % [SD], -9.3 [3.5]; P = .01; 10th graders: % [SD], -9.0 [3.8]; P = .02) and marijuana use (eighth graders: % [SD], 5.0 [1.9]; P = .03; 10th graders: % [SD], 3.2 [1.5]; P = .007). No significant differences were found in perceived harmfulness or marijuana use among 12th graders in Washington or for any of the 3 grades in Colorado. **Conclusions:** Among eighth and 10th graders in Washington, perceived harmfulness of marijuana use decreased and marijuana use increased following legalization of recreational marijuana use. In contrast, Colorado did not exhibit any differential change in perceived harmfulness or past-month adolescent marijuana use following legalization. A cautious interpretation of the findings suggests investment in evidence-based adolescent substance use prevention programs in any additional states that may legalize recreational marijuana use.


**Background:** Cannabis use is common in North America, especially among young people, and is associated with a risk of various acute and chronic adverse health outcomes. Cannabis control regimes are evolving, for example toward a national legalization policy in Canada, with the aim to improve public health, and thus require evidence-based interventions. As cannabis-related health outcomes may be influenced by behaviors that are modifiable by the user, evidence-based Lower-Risk Cannabis Use Guidelines (LRCUG) — a kin to similar
guidelines in other health fields – offer a valuable, targeted prevention tool to improve public health outcomes. **Objectives:** To systematically review, update, and quality-grade evidence on behavioral factors determining adverse health outcomes from cannabis that may be modifiable by the user, and translate this evidence into revised LRCUG as a public health intervention tool based on an expert consensus process. **Methods:** We used pertinent medical search terms and structured search strategies, to search MEDLINE, EMBASE, PsycINFO, Cochrane Library databases, and reference lists primarily for systematic reviews and meta-analyses, and additional evidence on modifiable risk factors for adverse health outcomes from cannabis use. **Selection Criteria:** We included studies if they focused on potentially modifiable behavior-based factors for risks or harms for health from cannabis use, and excluded studies if cannabis use was assessed for therapeutic purposes. **Data Collection and Analysis:** We screened the titles and abstracts of all studies identified by the search strategy and assessed the full texts of all potentially eligible studies for inclusion; 2 of the authors independently extracted the data of all studies included in this review. We created Preferred Reporting Items for Systematic Reviews and Meta-Analyses flow-charts for each of the topical searches. Subsequently, we summarized the evidence by behavioral factor topic, quality-graded it by following standard (Grading of Recommendations Assessment, Development, and Evaluation; GRADE) criteria, and translated it into the LRCUG recommendations by the author expert collective on the basis of an iterative consensus process. **Main Results:** For most recommendations, there was at least "substantial" (i.e., good-quality) evidence. We developed 10 major recommendations for lower-risk use: (1) the most effective way to avoid cannabis use-related health risks is abstinence, (2) avoid early age initiation of cannabis use (i.e., definitely before the age of 16 years), (3) choose low-potency tetrahydrocannabinol (THC) or balanced THC-to-cannabidiol (CBD)-ratio cannabis products, (4) abstain from using synthetic cannabinoids, (5) avoid combusted cannabis inhalation and give preference to nonsmoking use methods, (6) avoid deep or other risky inhalation practices, (7) avoid high-frequency (e.g., daily or near-daily) cannabis use, (8) abstain from cannabis-impaired driving, (9) populations at higher risk for cannabis use-related health problems should avoid use altogether, and (10) avoid combining previously mentioned risk behaviors (e.g., early initiation and high-frequency use). **Conclusions:** Evidence indicates that a substantial extent of the risk of adverse health outcomes from cannabis use may be reduced by informed behavioral choices among users. The evidence-based LRCUG serve as a population-level education and intervention tool to inform such user choices toward improved public health outcomes. However, the LRCUG ought to be systematically communicated and supported by key regulation measures (e.g., cannabis product labeling, content regulation) to be effective. All of these measures are concretely possible under emerging legalization regimes, and should be actively implemented by regulatory authorities. The population-level impact of the LRCUG toward reducing cannabis use-related health risks should be evaluated. **Public health implications:** Cannabis control regimes are evolving, including legalization in North America, with uncertain impacts on public health. Evidence-based LRCUG offer a potentially valuable population-level tool to reduce the risk of adverse health outcomes from cannabis use among (especially young) users in legalization contexts, and hence to contribute to improved public health outcomes.


In 2000, Colorado residents voted to legalize marijuana use for medical conditions such as glaucoma, HIV/AIDS, cancer, seizures, and severe pain. From 2000 to 2009, medical marijuana was available in Colorado only from plants grown in noncommercial, home settings, and the number of medical users or registrants remained relatively small. But in 2010, state law was changed to permit commercial production and distribution of medical marijuana. The number of registrants (both adults and children) grew rapidly – from 4819 in December 2008 to 115,467 in December 2014 – and medical marijuana dispensaries proliferated. Then, on January 1, 2014, Colorado became the first U.S. state to allow sales of recreational, or retail, marijuana. With no state models or national guidance to follow, Colorado public health officials have turned to lessons from medical
marijuana to prepare for the potential public health implications of more widely available recreational marijuana.


On January 1, 2014, Colorado became the first state in the nation to sell legal recreational marijuana for adult use. As a result, Colorado has had to carefully examine potential population health and safety impacts as well as the role of public health in response to legalization. We have discussed an emerging public health framework for legalized recreational marijuana. We have outlined this framework according to the core public health functions of assessment, policy development, and assurance. In addition, we have discussed challenges to implement this framework that other states considering legalization may face.


Abstract: In November 2012, Colorado voters approved legalized recreational marijuana. On January 1, 2014, Colorado became the first state to allow legal sales of non-medical marijuana for adults over the age of 21. Since that time, the state has been monitoring potential impacts on population health. In this paper, we present lessons learned in the first three years following legal sales of recreational marijuana. These lessons pertain to health behaviors and health outcomes, as well as to health policy issues. Our intent is to share these lessons with other states as they face the prospect of recreational marijuana legalization.


Objective: As legalization of nonmedical retail marijuana increases, states are implementing public health campaigns designed to prevent increases in youth marijuana use. This study investigated which types of marijuana-related messages were rated most highly by parents and their teens and whether these preferences differed by age and marijuana use. Method: Nine marijuana-focused messages were developed as potential radio, newspaper, or television announcements. The messages fell into four categories: information about the law, general advice/conversation starters, consequences of marijuana use/positive alternatives, and information on potential harmful effects of teen marijuana use. The messages were presented through an online survey to 282 parents (84% female) and 283 teen (54% female) participants in an ongoing study in Washington State. Results: Both parents and youth rated messages containing information about the law higher than other types of messages. Messages about potential harms of marijuana use were rated lower than other messages by both generations. Parents who had used marijuana within the past year (n = 80) rated consequence/positive alternative messages lower than parent nonusers (n = 199). Youth marijuana users (n = 77) and nonusers (n = 202) both rated messages containing information about the law higher than other types of messages. Youth users and nonusers were less likely than parents to believe messages on the harmful effects of marijuana. Conclusions: The high ratings for messages based on information about the marijuana law highlight the need for informational health campaigns to be established as a first step in the marijuana legalization process.

**Background:** As of January 1, 2017, eight states have approved laws for recreational marijuana use. While the social impacts of these changes remain under debate, the influence on adolescent marijuana use is a key policy and health issue across the U.S. **Objective:** To examine changes in adolescent marijuana-use behaviors in the first year after recreational marijuana implementation in Colorado, and to analyze the effect of retail marijuana store proximity on youth use and perceptions. **Method:** Secondary analysis of Healthy Kids Colorado Survey data from 40 schools surveyed before and after recreational marijuana sales were implemented (2013 student n = 12,240; 2014 student n = 11,931). Self-reported marijuana use, ease of access, and perceived harms were compared between years and by proximity of recreational marijuana stores to surveyed schools. **Results:** Adolescent marijuana use behaviors, wrongness of use, and perceptions of risk of harm were unchanged from baseline to one-year follow-up. Perceived ease of access to marijuana increased (from 46% to 52%). Proximity of recreational marijuana stores was not significantly associated with perceived ease of access to marijuana. **Conclusions/Importance:** In the first study of adolescent marijuana use and perceptions after state retail implementation of recreational marijuana, there was little change in adolescent marijuana use but a significant change in perception of ease of access. Public health workers and policymakers should continue to monitor these changes as essential for evaluating the impact of liberalization of marijuana policies.


**Abstract:** This review provides an overview of the changing US epidemiology of cannabis use and associated problems. Adults and adolescents increasingly view cannabis as harmless, and some can use cannabis without harm. However, potential problems include harms from prenatal exposure and unintentional childhood exposure; decline in educational or occupational functioning after early adolescent use, and in adulthood, impaired driving and vehicle crashes; cannabis use disorders (CUD), cannabis withdrawal, and psychiatric comorbidity. Evidence suggests national increases in cannabis potency, prenatal and unintentional childhood exposure; and in adults, increased use, CUD, cannabis-related emergency room visits, and fatal vehicle crashes. Twenty-nine states have medical marijuana laws (MMLs) and of these, 8 have recreational marijuana laws (RMLs). Many studies indicate that MMLs or their specific provisions did not increase adolescent cannabis use. However, the more limited literature suggests that MMLs have led to increased cannabis potency, unintentional childhood exposures, adult cannabis use, and adult CUD. Ecological-level studies suggest that MMLs have led to substitution of cannabis for opioids, and also possibly for psychiatric medications. Much remains to be determined about cannabis trends and the role of MMLs and RMLs in these trends. The public, health professionals, and policy makers would benefit from education about the risks of cannabis use, the increases in such risks, and the role of marijuana laws in these increases.


**Purpose:** The purpose of this study was to assess whether infrequent and frequent marijuana use at age 19/20 years predicts receipt of educational degrees by the mid-20s, independent of confounding age 18 adolescent risk factors. **Methods:** Data were from the Monitoring the Future study, an annual nationally representative survey of high school seniors followed into adulthood. Thirteen cohorts (1990-2002) of high school seniors were followed longitudinally to their mid-20s (n = 4,925; 54% female). We used logistic regression and propensity...
score matching with successive inclusion of age 18 risk factors and substance use to compare age 19/20 frequent marijuana users (six or more occasions in past 30 days) to nonusers, frequent users to infrequent users (1-6 occasions), and infrequent users to nonusers on their likelihood of degree attainment by the mid-20s. 

**Results:** Frequent marijuana users were less likely than infrequent users and nonusers to earn bachelor’s degrees, even after controlling for a host of age 18 risk factors (e.g., family socioeconomic background, academic performance, educational expectations, truancy). However, these differences were reduced in magnitude to statistical nonsignificance when we controlled for age 18 substance use. Across analyses, the proportion reaching this educational milestone did not differ significantly between infrequent users and nonusers. 

**Conclusions:** Results support a growing body of work suggesting that frequent marijuana use predicts a lower likelihood of postsecondary educational attainment, and this difference may originate during secondary school.


**Abstract:** Harm reduction policies and attitudes in the United States have advanced substantially in recent years but still lag behind more advanced jurisdictions in Europe and elsewhere. The Obama administration, particularly in its last years, embraced some harm reduction policies that had been rejected by previous administrations but shied away from more cutting edge interventions like supervised consumption sites and heroin-assisted treatment. The Trump administration will undermine some of the progress made to date but significant state and local control over drug policies in the US, as well as growing Republican support for pragmatic drug policies, motivated in part by the opioid crisis, ensures continuing progress for harm reduction.


**Abstract:** Until November 2012, no modern jurisdiction had removed the prohibition on the commercial production, distribution, and sale of marijuana for nonmedical purposes – not even the Netherlands. Government agencies in Colorado and Washington are now charged with granting production and processing licenses and developing regulations for legal marijuana, and other states and countries may follow. Our goal is not to address whether marijuana legalization is a good or bad idea but, rather, to help policymakers understand the decisions they face and some lessons learned from research on public health approaches to regulating alcohol and tobacco over the past century.


**Background:** Support for cannabis (“marijuana”) legalization is increasing in the United States (US). Use was recently legalized in two states and in Uruguay, and other states and countries are expected to follow suit. This study examined intentions to use among US high school seniors if cannabis were to become legally available.

**Methods:** Data from the last five cohorts (2007-2011) of high school seniors in Monitoring the Future, an annual nationally representative survey of students in the US were utilized. Data were analyzed separately for the 6116 seniors who reported no lifetime use of cannabis and the 3829 seniors who reported lifetime use (weighted Ns). We examined whether demographic characteristics, substance use and perceived friend disapproval towards cannabis use were associated with (1) intention to try cannabis among non-lifetime users, and (2) intention to use cannabis as often or more often among lifetime users, if cannabis was legal to use. 

**Results:** Ten percent of
non-cannabis-using students reported intent to initiate use if legal and this would be consistent with a 5.6% absolute increase in lifetime prevalence of cannabis use in this age group from 45.6% (95% CI=44.6, 46.6) to 51.2% (95% CI=50.2, 52.2). Eighteen percent of lifetime users reported intent to use cannabis more often if it was legal. Odds for intention to use outcomes increased among groups already at high risk for use (e.g., males, whites, cigarette smokers) and odds were reduced when friends disapproved of use. However, large proportions of subgroups of students normally at low risk for use (e.g., non-cigarette-smokers, religious students, those with friends who disapprove of use) reported intention to use if legal. Recent use was also a risk factor for reporting intention to use as often or more often. **Conclusion:** Prevalence of cannabis use is expected to increase if cannabis is legal to use and legally available.


Abstract: This commentary to the editorial of Hajizadeh argues that the economic, social and health consequences of legalizing cannabis in Canada will depend in large part on the exact stipulations (mainly from the federal government) and on the implementation, regulation and practice of the legalization act (on provincial and municipal levels). A strict regulatory framework is necessary to minimize the health burden attributable to cannabis use. This includes prominently control of production and sale of the legal cannabis including control of price and content with ban of marketing and advertisement. Regulation of medical marijuana should be part of such a framework as well.


Abstract: Cannabis is the most prevalently used drug globally, with many jurisdictions considering varying reform options to current policies to deal with this substance and associated harm. Three policy options are available: prohibition, decriminalization, and legalization, with prohibition currently the dominant model globally. This contribution gives reasons why legalization with strict regulation should be considered superior to other options with respect to public health in high income countries in North America.


Abstract: The effects of marijuana use on workplace safety are of concern for public health and workplace safety professionals. Twenty-nine states and the District of Columbia have enacted laws legalizing marijuana at the state level for recreational and/or medical purposes. Employers and safety professionals in states where marijuana use is legal have expressed concerns about potential increases in occupational injuries, such as on-the-job motor vehicle crashes, related to employee impairment. Data published in 2017 by the Colorado Department of Public Health and Environment (CDPHE) showed that more than one in eight adult state residents aged ≥18 years currently used marijuana in 2014 (13.6%) and 2015 (13.4%) (1). To examine current marijuana use by working adults and the industries and occupations in which they are employed, CDPHE analyzed data from the state’s Behavioral Risk Factor Surveillance System (BRFSS) regarding current marijuana use (at least 1 day during the preceding 30 days) among 10,169 persons who responded to the current marijuana use question. During 2014 and 2015, 14.6% of these 10,169 Colorado workers reported current marijuana use, with the highest reported prevalence among workers in the Accommodation and Food Services
industry (30.1%) and Food Preparation and Serving (32.2%) occupations. Understanding the industries and occupations of adults with reported marijuana use can help direct and maximize impact of public health messaging and potential safety interventions for adults.


**Abstract:** Adolescence and young adulthood is a critical stage when the economic foundations for life-long health are established. To date, there is little consensus as to whether marijuana use is associated with poor educational and occupational success in adulthood. We investigated associations between trajectories of marijuana use from ages 15 to 28 and multiple indicators of economic well-being in young adulthood including achievement levels (i.e., educational attainment and occupational prestige), work characteristics (i.e., full vs part-time employment, hours worked, annual income), financial strain (i.e., debt, trouble paying for necessities, delaying medical attention), and perceived workplace stress. Data were from the Victoria Healthy Youth Survey, a 10-year prospective study of a randomly recruited community sample of 662 youth (48% male; M<sub>age</sub> = 15.5), followed biennially for six assessments. Models adjusted for baseline age, sex, SES, high school grades, heavy drinking, smoking, and internalizing and oppositional defiant disorder symptoms. Chronic users (our highest risk class) reported lower levels of educational attainment, lower occupational prestige, lower income, greater debt, and more difficulty paying for medical necessities in young adulthood compared to abstainers. Similarly, increasers also reported lower educational attainment, occupational prestige, and income. Decreasers, who had high early use but quit over time, showed resilience in economic well-being, performing similar to abstainers. Groups did not differ on employment status or perceived workplace stress. The findings indicate that early onset and persistent high or increasingly frequent use of marijuana in the transition from adolescent to young adulthood is associated with risks for achieving educational and occupational success, and subsequently health, in young adulthood.
## Appendix C: Comparative Review of State Laws Legalizing Regulated Marijuana Use

### Comparative Review of State Laws Legalizing Recreational Marijuana Use

The information in this grid was adapted from the National Alliance for Model State Drug Laws (NAMSDL) document titled *Marijuana: Comparison of State Laws Legalizing Personal, Non-Medical Use*. The National Alliance for Model State Drug Laws is funded by congressional appropriations and is the non-profit successor to The President’s Commission on Model State Drug Laws. In coordination with the Office of National Drug Control Policy, the NAMSDL drafts model drug and alcohol laws, policies and regulations, and analyzes existing state statutes.

Regulations corresponding with the states of Alaska, California, Colorado, Massachusetts, Nevada, Oregon and Washington were cross-referenced against each state government website and updated accordingly. These states, which have legalized regulated marijuana use and set forth regulations on state government websites, are outlined in this document. Washington D.C., which permits home cultivation only, has been excluded. It should be noted that efforts to legalize marijuana production and use continue in many states, including in Maine, where a ballot initiative legalized marijuana possession but regulations for the retail market have not yet been established.

Note: Information corresponding to a particular state/regulation may have not been available at the time this document was developed. Such instances are indicated with 'NA'.
All information contained in this document is current as of April 30, 2018.

### Comparative Review of State Laws Legalizing Regulated Marijuana Use

<table>
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<tr>
<th>Overview</th>
<th>Alaska</th>
<th>California</th>
<th>Colorado</th>
<th>Massachusetts</th>
<th>Nevada</th>
<th>Oregon</th>
<th>Washington</th>
<th>Shared Rationale</th>
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<td>02/24/2015</td>
<td>11/09/2016</td>
<td>12/10/2012</td>
<td>12/15/2016</td>
<td>01/01/2017</td>
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<td>Marijuana Enforcement Division; Department of Revenue</td>
<td>Cannabis Control Commission</td>
<td>Nevada Department of Taxation</td>
<td>Oregon Liquor Control Commission; Oregon Health Authority; Oregon Department of Revenue</td>
<td>Washington Liquor and Cannabis Control Board</td>
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<td>Examination of law enforcement activity and costs related to marijuana use in 2006-2007 compared to 2014-2015</td>
<td>Cannabis Advisory Board responsible for examining regulation of marijuana/marijuana products</td>
<td>NA</td>
<td>Investigate influence of marijuana on driving ability</td>
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<td></td>
</tr>
</tbody>
</table>

### Home Cultivation

<table>
<thead>
<tr>
<th></th>
<th>Alaska</th>
<th>California</th>
<th>Colorado</th>
<th>Massachusetts</th>
<th>Nevada</th>
<th>Oregon</th>
<th>Washington</th>
<th>Shared Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home cultivation permitted</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>Home cultivation is allowed in all states except Washington. In states where home cultivation is allowed, plants and marijuana cannot be visible from public places with unaided vision and must be kept in an enclosed and locked area. Homemade.</td>
</tr>
<tr>
<td>Maximum number of plants/mature per household</td>
<td>12/6</td>
<td>6/NA</td>
<td>12/NA</td>
<td>12/NA</td>
<td>12/NA</td>
<td>12/NA</td>
<td>12/4 (or 10 seeds)</td>
<td></td>
</tr>
<tr>
<td>Noncommercial transfer limit</td>
<td>1 oz. or 6 plants</td>
<td>1 oz.</td>
<td>1 oz.</td>
<td>1 oz.</td>
<td>NA</td>
<td>NA</td>
<td></td>
<td>Not permitted</td>
</tr>
<tr>
<td>Excess limits and repercussions</td>
<td>NA</td>
<td>Plants and marijuana produced &gt;28.5 oz. must be secured by a lock; not visible by normal</td>
<td>NA</td>
<td>Failure to keep marijuana &gt; 1 oz. locked up within the home punishable by a $100 fine/forfeiture of marijuana.</td>
<td>Unless an agent of a cultivation facility, not allowed to cultivate within 25 miles of a licensed facility</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
unaided vision from a public space.

Maximum amount of residential possession

Possession of marijuana produced by the plants on premises where the plants were grown is permitted.

10 oz. of home cultivated marijuana; > 1 oz. of marijuana must be secured by a lock

8 oz. useable marijuana

products may be transferred (not sold) to another person age 21 or older in some states.

<table>
<thead>
<tr>
<th>Current State of Market</th>
<th>Alaska</th>
<th>California</th>
<th>Colorado</th>
<th>Massachusetts</th>
<th>Nevada</th>
<th>Oregon</th>
<th>Washington</th>
<th>Shared Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail licenses</td>
<td>59</td>
<td>NA</td>
<td>529</td>
<td></td>
<td>NA</td>
<td>345</td>
<td>756</td>
<td>The number of licenses granted may be restricted by municipalities.</td>
</tr>
<tr>
<td>Cultivation/producer licenses</td>
<td>128 (includes “standard” and “limited” cultivation facilities)</td>
<td>NA</td>
<td>735</td>
<td>Retail market was not operational at the time this document was produced.</td>
<td>NA</td>
<td>23</td>
<td>1,465</td>
<td></td>
</tr>
<tr>
<td>Manufacturing/processers</td>
<td>11</td>
<td>NA</td>
<td>284</td>
<td></td>
<td>NA</td>
<td>19</td>
<td>1,572</td>
<td></td>
</tr>
<tr>
<td>Testing licenses</td>
<td>3</td>
<td>NA</td>
<td>12</td>
<td></td>
<td>NA</td>
<td>104 wholesalers</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>Other licenses</td>
<td>201 are currently operational. 508 additional applications are at various stages of the review process.</td>
<td>NA</td>
<td>8 operators; 9 transporters</td>
<td></td>
<td>NA</td>
<td>345</td>
<td>917 producers/processors; 37 transporters</td>
<td></td>
</tr>
<tr>
<td>Amount of Marijuana Permitted for Personal Use</td>
<td>Alaska</td>
<td>California</td>
<td>Colorado</td>
<td>Massachusetts</td>
<td>Nevada</td>
<td>Oregon</td>
<td>Washington</td>
<td>Shared Rationale</td>
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</tr>
<tr>
<td>Flower</td>
<td>1 oz.</td>
<td>28.5 gr.</td>
<td>1 oz.</td>
<td>1 oz.</td>
<td>1 oz.</td>
<td>1 oz. of useable marijuana in a public place</td>
<td>1 oz.</td>
<td>Must be 21 years or older to possess, purchase or consume marijuana.</td>
</tr>
<tr>
<td>Concentrated</td>
<td>7 gr.</td>
<td>8 gr.</td>
<td>8 gr.</td>
<td>5 gr.</td>
<td>12.5% of 1 oz.</td>
<td>5 gr.</td>
<td>7 gr.</td>
<td>Products permitted: herbal, edible, infused products, tinctures, concentrates.</td>
</tr>
<tr>
<td>Liquid</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>72 oz.</td>
<td></td>
</tr>
<tr>
<td>Solid</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>16 oz.</td>
<td></td>
</tr>
<tr>
<td>Maximum amount in one transaction</td>
<td>5,600 mg. of THC</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Maximum amount for non-commercial transfer</td>
<td>NA</td>
<td>NA</td>
<td>1 oz</td>
<td>NA</td>
<td>1 oz., or 1/8 oz. if concentrate</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Restrictions on Marijuana Consumption/Personal Use Regulations</td>
<td>Alaska</td>
<td>California</td>
<td>Colorado</td>
<td>Massachusetts</td>
<td>Nevada</td>
<td>Oregon</td>
<td>Washington</td>
<td>Shared Rationale</td>
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<td>---------------------------------------------------------------</td>
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</tr>
<tr>
<td>Overview of general restrictions</td>
<td>Up to $400 for providing false ID, $100 for public consumption; consumption permitted on premises of licensed retailer designated for onsite consumption.</td>
<td>Cannot possess or smoke within 1,000 feet of a school, day care or youth center while children are present; on the grounds of, or within, any correctional facility.</td>
<td>Class 2 misdemeanor for an underage person to buy or possess retail marijuana.</td>
<td>Cannot possess or smoke within a public or private school or any correctional facility.</td>
<td>Cannot possess or smoke within a public or private school or any correctional facility.</td>
<td>Cannot give marijuana to anyone who is visibly intoxicated. Cannot import or export marijuana from Oregon.</td>
<td>Illegal to either open a package containing marijuana or consume marijuana &quot;in view of the general public.&quot;</td>
<td></td>
</tr>
<tr>
<td>Local control</td>
<td>Local government entities (city/town, county) may prohibit the operation of marijuana establishments or impose restrictions on operations as a result of voter initiatives or local ordinances. The restrictions may impact retailers, manufacturers, and cultivators. This includes limits to the number of establishments permitted and establishment of civil penalties for violations.</td>
<td>Employers may restrict or prohibit use, consumption, possession, and transfer of marijuana in the workplace.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employer restrictions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Driving During/After Use</td>
<td>Specified THC level in blood</td>
<td>NA</td>
<td>NA</td>
<td>&gt;=5.0 ng/ml</td>
<td>NA</td>
<td>&gt;=2 ng/ml</td>
<td>NA</td>
<td>&gt;=5.0 ng/ml</td>
</tr>
<tr>
<td></td>
<td>Specified THC level in urine</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>&gt;=10 ng/ml</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td></td>
<td>Possession of marijuana while operating</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

In all listed states, it is illegal to operate a motor vehicle under the influence of any controlled substance,
vehicle is illegal
Open container in vehicle
| NA | May not possess an open container of marijuana while driving |
| NA | Passengers may not possess open containers of marijuana |
Possession of open container may result in fine of up to $500

Law enforcement officers may base DUI arrest on observed impairment.

Exemption from penalty provided by law
Marijuana and marijuana products possessed and used in accordance with state laws are not subject to seizure and may not be the basis for arrest.

<table>
<thead>
<tr>
<th>Marijuana Establishments</th>
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<tbody>
<tr>
<td>Application Process</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Washington State Liquor and Cannabis Board have no plan to open window for new retail or producer licenses as of 4/30/18.</td>
</tr>
<tr>
<td>Background check</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>90-day turnaround on applications</td>
<td>✓</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Priority to existing medical marijuana establishments</td>
<td>NA</td>
<td>✓</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New/Initial</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$500</td>
<td>Cannot exceed $3,000</td>
<td>$5,000</td>
<td>$250</td>
<td>$250</td>
<td></td>
</tr>
<tr>
<td>Renewal</td>
<td>$600</td>
<td>NA</td>
<td>$300</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Handler/agent permit</td>
<td>$50</td>
<td>NA</td>
<td>$75-$250</td>
<td>NA</td>
<td>$75</td>
<td>$100</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Marijuana Establishments</td>
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</tr>
<tr>
<td>Retail</td>
<td>$5000</td>
<td></td>
<td></td>
<td>Cannot exceed $15,000</td>
<td>$4,750</td>
<td>$1,480</td>
<td></td>
<td>Licenses valid for 1 year.</td>
</tr>
<tr>
<td>Cultivation/producer</td>
<td>$1,000 - $5,000</td>
<td>Licensing and renewal fees based upon size of business, $4,000-$72,000; $5,000 surety bond</td>
<td>Up to $4,900</td>
<td>Cannot exceed $15,000</td>
<td>$1,000-$5,750 based on size of production</td>
<td>$1,480</td>
<td></td>
<td>Massachusetts began accepting applications from subgroups of prospective licensees on April 17, 2018. All other license types may start the application process between May 1, 2018 and June 1, 2018.</td>
</tr>
<tr>
<td>Manufacturing/Processor</td>
<td>$1,000 - $5,000</td>
<td></td>
<td></td>
<td>Cannot exceed $15,000</td>
<td>Initial, max fee $10000; renewal, max fee $3,300</td>
<td>$4,750</td>
<td>$1,480</td>
<td></td>
</tr>
<tr>
<td>Testing</td>
<td>$1,000</td>
<td></td>
<td></td>
<td>Cannot exceed $10,000</td>
<td>Initial, max fee $15,000; renewal, max fee $5,000</td>
<td>$4,750</td>
<td>NA</td>
<td></td>
</tr>
</tbody>
</table>
| Distributor              | NA     |            |          | NA | Initial, max fee $15,000; renewal, max fee $5,000 | NA | NA | }
<table>
<thead>
<tr>
<th>Marijuana Establishments</th>
<th>Alaska</th>
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<th>Washington</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Licensee should be 21 years or older</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>All states require conduct fingerprint-based background checks prior to granting a license. Most states prohibit previous substance-related commercial convictions with the exception of Massachusetts. Oregon evaluates the relevance of prior criminal records case by case. Some states are working toward expunging previous drug related offenses.</td>
</tr>
<tr>
<td>Joint medical/retail marijuana establishment allowed</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Criminal conviction restrictions</td>
<td>Convicted of a felony and either (1) less than 5 years have elapsed since conviction or (2) person is on probation or parole for that felony</td>
<td>No prior record of felony/no substance related misdemeanor.</td>
<td>No prior record of controlled substance-related felony in the past 10 years/no felony in the past 5 years.</td>
<td>No prior record of felony (unless it solely involved the distribution of marijuana to adults).</td>
<td>No conviction of any &quot;excluded felony offense&quot;, no previous license revocation.</td>
<td>No conviction to state or federal law violations relevant to the business. No specifically set criteria.</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>No record of alcohol sales</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>No record of unauthorized substance sales</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>No alcohol sales within the last 5 years</td>
<td>Cannot be a licensed retailer of alcohol or tobacco</td>
<td>License cannot be granted to law enforcement</td>
<td>NA</td>
<td>NA</td>
<td>License cannot be granted to habitual users of excess alcohol or other drugs</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Marijuana Establishments</td>
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</tr>
<tr>
<td>Distance requirements</td>
<td>School: 500 ft.</td>
<td>School: 600 ft.</td>
<td>School: 1000 ft.</td>
<td>School: 500 ft.</td>
<td>School: 1,000 ft.; community facility 300 ft.</td>
<td>School: 1,000 ft.</td>
<td>School and other community facilities that are not excluded for adults: 1,000 ft.</td>
<td></td>
</tr>
<tr>
<td>Hours of operation</td>
<td>Sales prohibited between 5:00 am and 8:00 am</td>
<td>Sales prohibited between 10pm and 6am</td>
<td>Varies by municipality</td>
<td>NA</td>
<td>Varies by municipality</td>
<td>Sales allowed between 7:00 am and 10:00 pm</td>
<td>Sales allowed between 8:00 am and 12:00 am</td>
<td></td>
</tr>
<tr>
<td>Customer must show ID</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Insurance</td>
<td>NA</td>
<td>May be available but not required, varies by municipality</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>Licensee may require an affordable general liability insurance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Store shall not be located in an establishment with liquor license</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Substance shall not be visible to the public</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Marijuana Establishments</td>
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<td>------------</td>
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</tr>
<tr>
<td>Operational restrictions and requirements</td>
<td>Maximum amount of THC per serving size</td>
<td>≤ 5 mg THC</td>
<td>&lt; 10 mg THC</td>
<td>&lt; 10 mg THC</td>
<td>NA</td>
<td>&lt; 10 mg THC</td>
<td>≤ 5 mg THC</td>
<td>&lt; 10 mg THC</td>
</tr>
<tr>
<td>Maximum Servings per package</td>
<td>50 mg THC</td>
<td>NA</td>
<td>100 mg THC</td>
<td>NA</td>
<td>NA</td>
<td>50 mg THC</td>
<td>100 mg THC</td>
<td></td>
</tr>
<tr>
<td>Other regulations</td>
<td>Handlers must complete an education course and pass a written test; liquid and solid edibles must be homogenized to ensure uniform disbursement of cannabinoids</td>
<td>NA</td>
<td>All employees shall be residents of Colorado. Online sales not allowed.</td>
<td>NA</td>
<td>Number of retailers is limited by population of county. A county may file a request for additional stores.</td>
<td>May not be located in residential areas; delivery allowed in certain circumstances but only between 8 am and 9 pm.</td>
<td>Maximum amount of inventory for retail: up to four months of their average supplies. No vending machine or drive through. Food requiring temperature control shall not be infused with marijuana.</td>
<td></td>
</tr>
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<td>Marijuana Establishments</td>
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</tr>
<tr>
<td>Labelling &amp; Packaging</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cannot label products to be appealing to minors</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>General consensus on labeling: Identification of the marijuana cultivator/manufacturer; amount of THC per serving/package; name and logo of cultivator; keep out of reach of children. Some states require disclosure of all pesticides applied during production and processing. Packaging should be certified to be child resistant by a third-party</td>
</tr>
<tr>
<td>Third-party-certified child-resistant packaging required</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>‘Contains marijuana’ symbol/text required on packaging</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Explanation of warnings required on packaging</td>
<td>1) This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health. 2) There may be health risks associated with the consumption of this product. 3) Should not be used by women who are pregnant or breast feeding. 4) For use only by adults 21 and older. 5) Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advertising</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>May not contain false or misleading information</td>
<td>✓</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>May not promote excessive consumption</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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</tr>
<tr>
<td>May not depict someone under 21 consuming marijuana</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<tr>
<td>Requirement</td>
<td>State 1</td>
<td>State 2</td>
<td>State 3</td>
<td>State 4</td>
<td>State 5</td>
<td>State 6</td>
<td>State 7</td>
<td>Notes</td>
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<td>---------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>May not promote transport across state lines/target out of state consumers</td>
<td>NA</td>
<td>NA</td>
<td>✔️</td>
<td>NA</td>
<td>✔️</td>
<td>✔️</td>
<td>✔️</td>
<td>firm. Package should be resealable in case it includes multiple servings. Packaging should be opaque.</td>
</tr>
<tr>
<td>Cannot advertise on TV/radio/print unless...</td>
<td>NA</td>
<td>71.6% of audience is expected to be 21 or older</td>
<td>70% of audience is 21 or older; outdoor advertising generally prohibited</td>
<td>85% of audience is 21 or older</td>
<td>70% of audience is 21 or older</td>
<td>NA</td>
<td>NA</td>
<td>Advertising restrictions vary, but many states ban advertising within a certain distance of schools, limit the amount of signage outside an establishment and restrict online marketing and/or marketing to a mobile device.</td>
</tr>
<tr>
<td>May not claim curative or therapeutic benefits</td>
<td>✔️</td>
<td>NA</td>
<td>✔️</td>
<td>NA</td>
<td>NA</td>
<td>✔️</td>
<td>✔️</td>
<td></td>
</tr>
<tr>
<td>Monitoring/Inspections</td>
<td>Alaska</td>
<td>California</td>
<td>Colorado</td>
<td>Massachusetts</td>
<td>Nevada</td>
<td>Oregon</td>
<td>Washington</td>
<td>Shared Rationale</td>
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<tr>
<td>Inspection of physical premises/establishment</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Inspection by local fire department/code inspector</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Examination of business and financial records</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<tr>
<td>Confirmation of qualifications of personnel</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td></td>
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<tr>
<td>Testing</td>
<td></td>
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<tr>
<td>Laboratory testing is required on samples of all marijuana or marijuana products which may include potency testing (THC content), microbial testing, testing for pesticides and other contaminants.</td>
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<tr>
<td>Tracking System: Marijuana Enforcement Tracking Reporting &amp; Compliance (METRC)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td>✓</td>
<td>✓</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Tracking System: Other</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td>NA</td>
<td>NA</td>
<td>✓</td>
<td></td>
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<tr>
<td>Other</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>Secret shopper program</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
</tbody>
</table>
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https://doi.org/10.1001/jamapsychiatry.2018.0335


30 Mark & Terplan


36 Drug Policy Alliance.


44 Johnson, Ream, Dunlap & Sifaneck.


46 Johnson, Ream, Dunlap & Sifaneck.


50 Nathan, Muraresku, Aggarwal, Beck, Burnett, Holland, ... Sisley.


73 Ramesh, Schlosburg, Wielhaus & Lichtman.


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Blue Ribbon Commission on Marijuana Policy/Youth Education and Prevention.


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Cerdá, Wall, Feng, Keyes, Sarvet, Schulenberg, ... Hasin.


Hansen, B., Miller, K., & Weber, C. (2017). The Grass is Greener on the Other Side: How Extensive is the Interstate Trafficking of Recreational Marijuana?


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Other Revenue Actions

- **Enact the Cannabis Regulation and Taxation Act.** The Executive Budget proposes to regulate and control the manufacture, wholesale, and retail production, distribution, transportation, and sale of cannabis, cannabis related products, medical cannabis, and hemp cannabis within the State of New York, for the purposes of fostering and promoting temperance in their consumption, to properly protect the public health, safety, and welfare, and to promote social equality.

This bill would impose three taxes on the adult-use of marijuana. The first tax is imposed on the cultivation of cannabis at the rate of $1 per dry weight gram of cannabis flower and $0.25 per dry weight gram of cannabis trim. The second tax is imposed on the sale by a wholesaler to a retail dispansary at the rate of 20 percent of the invoice price. The third tax is imposed on the same sale by a wholesaler to a retail dispensary at the rate of 2 percent of the invoice price, but collected in trust for and on account of the county in which the retail dispensary is located.

Revenues from the State cannabis taxes will be expended for the following purposes: administration of the regulated cannabis program, data gathering, monitoring and reporting, the governor's traffic safety committee, small business development and loans, substance abuse, harm reduction and mental health treatment and prevention, public health education and intervention, research on cannabis uses and applications, program evaluation and Improvements, and any other identified purpose recommended by the director of the Office of Cannabis Management and approved by the Director of the Budget.

- **Enact a Comprehensive Tobacco Control Policy.** The Executive Budget raises the minimum age to purchase cigarettes from 18 to 21; prohibits the sale of tobacco products in all pharmacies; prohibits the acceptance of price reduction instruments for both tobacco products and e-cigarettes; prohibits the display of tobacco products or e-cigarettes in stores; clarifies that the Department of Health has the authority to promulgate regulations that prohibit or restrict the sale or distribution of e-cigarettes or vapor products that have a characterizing flavor, or the use of names for characterizing flavors intended to appeal to minors; prohibits smoking inside and on the grounds of all hospitals licensed or operated by the Office of Mental Health; and requires that e-cigarettes be sold only through licensed dealers. The policy also imposes a 20 percent tax on the retail sale of vapor products.

This comprehensive tobacco control policy will prevent death and disease associated with tobacco use, as well as save the State money due to the high cost of health care expenses for tobacco-related illnesses, estimated at $10.4 billion annually, including $3.3 billion in Medicaid costs.
PART VV

18 Section 1. This act shall be known and may be cited as the “Cannabis Regulation and Taxation Act”.

20 § 2. A new chapter 7-A of the consolidated laws is added, to read as follows:

CHAPTER 7-A OF THE CONSOLIDATED LAWS

CANNABIS LAW

ARTICLE 1

01/15/19 201 12574-01-9

1 SHORT TITLE; POLICY OF STATE AND PURPOSE OF CHAPTER;

2 DEFINITIONS

3 Section 1. Short title.

4 2. Policy of state and purpose of chapter.

5 3. Definitions.

6 § 1. Short Title. This chapter shall be known and may be cited and referred to as the "cannabis law".

7 § 2. Policy of state and purpose of chapter. It is hereby declared as policy of the state of New York that it is necessary to properly regu-

late and control the cultivation, processing, manufacture, wholesale,

and retail production, distribution, transportation, and sale of canna-

bis related products, medical cannabis, and hemp cannabis

within the state of New York, for the purposes of fostering and promot-

ing temperance in their consumption, to properly protect the public

health, safety, and welfare, and to promote social equality. It is here-

by declared that such policy will best be carried out by empowering the

state office of cannabis management and its executive director, to

determine whether public convenience and advantage will be promoted by

the issuance of registrations, licenses and/or permits granting the
20 privilege to produce, distribute, transport, sell, or traffic in canna-
21 bis, medical cannabis, or hemp cannabis, to increase or decrease in the
22 number thereof and the location of premises registered, licensed, or
23 permitted thereby, subject only to the right of judicial review herein-
24 after provided for. It is the purpose of this chapter to carry out that
25 policy in the public interest. The restrictions, regulations, and
26 provisions contained in this chapter are enacted by the legislature for
01/15/19 202 12574-01-9
1 the protection of the health, safety, and welfare of the people of the
2 state.

3 § 3. Definitions. Whenever used in this chapter, unless otherwise
4 expressly stated or unless the context or subject matter requires a
5 different meaning, the following terms shall have the representative
6 meanings hereinafter set forth or indicated:
7 1. "Applicant" means a for-profit entity or not-for-profit corporation
8 and includes: board members, officers, managers, owners, partners, prin-
9 cipal stakeholders and members who submit an application to become a
10 registered organization, licensee or permittee.
11 2. "Bona fide cannabis retailer association" shall mean an association
12 of retailers holding licenses under this chapter, organized under the
13 non-profit or not-for-profit laws of this state.
14 3. "Cannabis" means all parts of the plant of the genus cannabis,
15 whether growing or not; the seeds thereof; the resin extracted from any
16 part of the plant; and every compound, manufacture, salt, derivative,
17 mixture, or preparation of the plant, its seeds or resin.
18 4. "Concentrated cannabis" means: (a) the separated resin, whether
19 crude or purified, obtained from a plant of the genus cannabis; or (b) a
20 material, preparation, mixture, compound or other substance which
contains more than three percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpen numbering system.

5. "Cannabis consumer" means a person, twenty-one years of age or older, who purchases cannabis or cannabis products for personal use by persons twenty-one years of age or older, but not for resale to others.

6. "Adult-use cannabis processor" means a person licensed by the office to purchase cannabis and concentrated cannabis from cannabis cultivators, to process cannabis, concentrated cannabis, and cannabis infused products, package and label cannabis, concentrated cannabis and cannabis infused products for sale in retail outlets, and sell cannabis, concentrated cannabis and cannabis infused products at wholesale to licensed adult-use cannabis distributors.

7. "Cannabis product" or "adult-use cannabis" means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

8. "Adult-use cannabis retail dispenser" means a person licensed by the executive director to purchase cannabis, concentrated cannabis, and cannabis-infused products from cannabis processors and cannabis distributors, and sell cannabis, concentrated cannabis and cannabis-infused products in a retail outlet.

9. "Certified medical use" means the acquisition, possession, use, or transportation of medical cannabis by a certified patient, or the acquisition, possession, delivery, transportation or administration of medical cannabis by a designated caregiver or designated caregiver facility, for use as part of the treatment of the patient's serious medical condition.
21 condition, as authorized in a certification under this chapter including
22 enabling the patient to tolerate treatment for the serious condition.
23 10. "Caring for" means treating a patient, in the course of which the
24 practitioner has completed a full assessment of the patient's medical
25 history and current medical condition.
26 11. "Certified patient" means a patient who is a resident of New York
27 state or receiving care and treatment in New York state as determined by
28 the executive director in regulation, and is certified under section
29 thirty of this chapter.
30 12. "Certification" means a certification, made under this chapter.
31 13. "Cultivation" shall include, but not be limited to, the planting,
32 growing, cloning, harvesting, drying, curing, grading and trimming of
33 cannabis.
34 14. "Executive director" means the executive director of the office of
35 cannabis management.
36 15. "Convicted" and "conviction" include and mean a finding of guilt
37 resulting from a plea of guilty, the decision of a court or magistrate
38 or the verdict of a jury, irrespective of the pronouncement of judgment
39 or the suspension thereof.
40 16. "Designated caregiver" means an individual designated by a certi-
41 fied patient in a registry application. A certified patient may desig-
42 nate up to five designated caregivers.
43 17. "Designated caregiver facility" means a general hospital or resi-
44 dential health care facility operating pursuant to article twenty-eight
45 of the public health law; an adult care facility operating pursuant to
46 title two of article seven of the social services law; a community
47 mental health residence established pursuant to section 41.44 of the
21 mental hygiene Law; a hospital operating pursuant to section 7.17 of the
22 mental hygiene law; a mental hygiene facility operating pursuant to
23 article thirty-one of the mental hygiene law; an inpatient or residen-
24 tial treatment program certified pursuant to article thirty-two of the
25 mental hygiene law; a residential facility for the care and treatment of
26 persons with developmental disabilities operating pursuant to article
27 sixteen of the mental hygiene law; a residential treatment facility for
28 children and youth operating pursuant to article thirty-one of the
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1 mental hygiene law; a private or public school; research institution
2 with an internal review board; or any other facility as determined by
3 the executive director in regulation; that registers with the office of
4 cannabis management to assist one or more certified patients with the
5 acquisition, possession, delivery, transportation or administration of
6 medical cannabis.
7 18. "Felony" means any criminal offense classified as a felony under
8 the laws of this state or any criminal offense committed in any other
9 state, district, or territory of the United States and classified as a
10 felony therein which if committed within this state, would constitute a
11 felony in this state.
12 19. "Form of medical cannabis" means characteristics of the medical
13 cannabis recommended or limited for a particular certified patient,
14 including the method of consumption and any particular strain, variety,
15 and quantity or percentage of cannabis or particular active ingredient.
16 20. "Government agency" means any office, division, board, bureau,
17 commission, office, agency, authority or public corporation of the state
18 or federal government or a county, city, town or village government
19 within the state.
“Industrial hemp” means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis, used or intended for an industrial purpose or those food and/or food ingredients that are generally recognized as safe, as further defined and regulated in the agriculture and markets law.

“Hemp cannabis” means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the office in regulation, used or intended for human or animal consumption or use for its cannabinoid content, as determined by the executive director in regulation. Hemp cannabis excludes industrial hemp used or intended exclusively for an industrial purpose and those food and/or food ingredients that are generally recognized as safe, as governed by the Agriculture and Markets Law, and shall not be regulated as "hemp" or "hemp cannabis" within the meaning of this section.

“Cannabinoid grower” means a person licensed by the office, and in compliance with article twenty-nine of the agriculture and markets law, to acquire, possess, cultivate, and sell hemp cannabis for its cannabinoid content.

“Cannabinoid extractor” means a person licensed by the office to acquire, possess, extract and manufacture hemp cannabis from licensed cannabinoid growers for the manufacture and sale of hemp cannabis.
20 products marketed for cannabinoid content and used or intended for human
21 or animal consumption or use.
22 25. "Individual dose" means a single measure of raw cannabis, medical
23 cannabis or non-infused concentrate or medical concentrate.
24 26. "Labor peace agreement" means an agreement between an entity and a
25 labor organization that, at a minimum, protects the state's proprietary
26 interests by prohibiting labor organizations and members from engaging
27 in picketing, work stoppages, boycotts, and any other economic interfer-
28 ence with the registered organization or licensee's business.
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1 27. "License" means a license issued pursuant to this chapter.
2 28. "Medical cannabis" means cannabis as defined in subdivision three
3 of this section, intended for a certified medical use, as determined by
4 the executive director in consultation with the commissioner of health.
5 30. "Office" or "office of cannabis management" means the New York
6 state office of cannabis management.
7 31. "Permit" means a permit issued pursuant to this chapter.
8 32. "Permittee" means any person to whom a permit has been issued
9 pursuant to this chapter.
10 33. "Person" means individual, institution, corporation, government or
11 governmental subdivision or agency, business trust, estate, trust, part-
12 nership or association, or any other legal entity.
13 34. "Practitioner" means a practitioner who: (i) is authorized to
14 prescribe controlled substances within the state, (ii) by training or
15 experience is qualified to treat a serious condition as defined in
16 subdivision forty-four of this section; and (iii) completes, at a mini-
17 mum, a two-hour course as determined by the executive director in regu-
18 lation; provided however, the executive director may revoke a practi-
tioner’s ability to certify patients for cause.

35. "Processing" includes, but is not limited to, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing cannabis products. Processing shall not include the cultivation of cannabis.

36. "Public place" means a public place as defined in regulation by the executive director.

37. "Registered organization" means an organization registered under article three of this chapter.

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

39. "Registry identification card" means a document that identifies a certified patient or designated caregiver, as provided under section thirty-two of this chapter.

40. "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

41. "Retailer" means any person who sells at retail any cannabis product, the sale of which a license is required under the provisions of this chapter.

42. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee of any cannabis product.

43. "To sell" includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell and shall include the transportation or delivery of any cannabis product in the state.
19 44. "Serious condition" means having one of the following severe
deblitating or life-threatening conditions: cancer, positive status for
human immunodeficiency virus or acquired immune deficiency syndrome,
amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis,
damage to the nervous tissue of the spinal cord with objective neurolog-
ical indication of intractable spasticity, epilepsy, inflammatory bowel
disease, neuropathies, Huntington's disease, post-traumatic stress
disorder, pain that degrades health and functional capability where the
use of medical cannabis is an alternative to opioid use, substance use
disorder, Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthritis,
autism, any condition authorized as part of a cannabis research
license, or any other condition as added by the executive director.
45. "Traffic in" includes to cultivate, process, manufacture, distrib-
ute or sell any cannabis, cannabis product, medical cannabis or hemp at
wholesale or retail.
46. "Terminally ill" means an individual has a medical prognosis that
the individual's life expectancy is approximately one year or less if
the illness runs its normal course.
47. "Wholesale sale" or "sale at wholesale" means a sale to any person
for purposes of resale.
48. "Distributor" means any person who sells at wholesale any cannabis
product, except medical cannabis, for the sale of which a license is
required under the provisions of this chapter.
49. "Warehouse" means and includes a place in which cannabis products
are housed or stored.

16 ARTICLE 2

17 NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT
§ 9. Establishment of an office of cannabis management. Pursuant to a chapter of the laws of two thousand nineteen which added this chapter, there is hereby established, within the division of alcoholic beverage control, an independent office of cannabis management, which shall have exclusive jurisdiction to exercise the powers and duties provided by this chapter. The office shall exercise its authority by and through an executive director.

§ 10. Executive director. The executive director of the state office of cannabis management shall receive an annual salary not to exceed an amount appropriated therefor by the legislature and his or her expenses actually and necessarily incurred in the performance of his official duties, unless otherwise provided by the legislature.

§ 11. Functions, powers and duties of the office and executive director. The office of cannabis management, by and through its executive director, shall have the following powers and duties:
1. To issue or refuse to issue any registration, license or permit provided for in this chapter.

2. To limit, or not to limit, in the executive director’s discretion, the number of registrations, licenses and permits of each class to be issued within the state or any political subdivision thereof, and in connection therewith to prohibit the acceptance of applications for such classes which have been so limited.

3. To revoke, cancel or suspend for cause any registration, license, or permit issued under this chapter and/or to impose a civil penalty for cause against any holder of a registration, license, or permit issued pursuant to this chapter. Any civil penalty so imposed shall be in addition to and separate and apart from the terms and provisions of the bond required pursuant to section thirty-six of this chapter.

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

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

6. To limit or prohibit, at any time of public emergency and without previous notice or advertisement, the cultivation, processing, distrib-
18 ution or sale of any or all cannabis products, medical cannabis or hemp
19 cannabis, for and during the period of such emergency.
20 7. To appoint any necessary directors, deputies, counsels, assistants,
21 investigators, and other employees within the limits provided by appro-
22 priation. Investigators so employed by the office shall be deemed to be
23 peace officers for the purpose of enforcing the provisions of the canna-
24 bis control law or judgements or orders obtained for violation thereof,
25 with all the powers set forth in section 2.20 of the criminal procedure
26 law.
27 8. To remove any employee of the office for cause, after giving such
28 employee a copy of the charges against him or her in writing, and an
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1 opportunity to be heard thereon. Any action taken under this subdivision
2 shall be subject to and in accordance with the civil service law.
3 9. To inspect or provide for the inspection at any time of any prem-
4 ises where cannabis or hemp cannabis is cultivated, processed, stored,
5 distributed or sold.
6 10. To prescribe forms of applications for registrations, licenses and
7 permits under this chapter and of all reports deemed necessary by the
8 office.
9 11. To delegate the powers provided in this section to such other
10 officers or employees or other state agencies as may be deemed appropri-
11 ate by the executive director.
12 12. To appoint such advisory groups and committees as the executive
13 director deems necessary to provide assistance to the office to carry
14 out the purposes and objectives of this chapter.
15 13. To exercise the powers and perform the duties in relation to the
16 administration of the office as are necessary but not specifically vest-
17 ed by this chapter, including but not limited to budgetary and fiscal
18 matters.
19 14. To develop and establish minimum criteria for certifying employees
20 to work in the cannabis industry, including the establishment of a
21 cannabis workers certification program.
22 15. To enter into contracts, memoranda of understanding, and agree-
23 ments as deemed appropriate by the executive director to effectuate the
24 policy and purpose of this chapter.
25 16. To issue and administer low interest or zero-interest loans to
26 qualified social equity applicants provided the office has sufficient
27 funds available for such purposes.
28
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1 17. If the executive director finds that public health, safety, or
2 welfare imperatively requires emergency action, and incorporates a find-
3 ing to that effect in an order, summary suspension of a license may be
4 ordered, effective on the date specified in such order or upon service
5 of a certified copy of such order on the licensee, whichever shall be
6 later, pending proceedings for revocation or other action. These
7 proceedings shall be promptly instituted and determined. In addition,
8 the executive director may order the administrative seizure of product,
9 issue a stop order, or take any other action necessary to effectuate and
10 enforce the policy and purpose of this chapter.
11 18. To issue regulations, declaratory rulings, guidance and industry
12 advisories.
13 § 12. Rulemaking authority. 1. The office shall perform such acts,
14 prescribe such forms and propose such rules, regulations and orders as
15 it may deem necessary or proper to fully effectuate the provisions of
16 this chapter.
17 2. The office shall have the power to promulgate any and all necessary
18 rules and regulations governing the production, processing, transporta-
19 tion, distribution, and sale of medical cannabis, recreational cannabis,
20 and hemp cannabis, including but not limited to the registration of
21 organizations authorized to traffic in medical cannabis, the licensing
22 and/or permitting of adult-use cannabis cultivators, processors, cooper-
23 atives, distributors, and retail dispensaries, and the licensing of
24 cannabinoid growers and extractors, including, but not limited to:
25 (a) prescribing forms and establishing application, reinstatement, and
26 renewal fees;
27 (b) the qualifications and selection criteria for registration,
28 licensing, or permitting;
29 (c) the books and records to be created and maintained by registered
30 organizations, licensees, and permittees, including the reports to be
31 made thereon to the office, and inspection of any and all books and
32 records maintained by any registered organization, licensee, or permittee
33 and on the premise of any registered organization, licensee, or permit-
34 tee;
35 (d) methods of producing, processing, and packaging cannabis, medical
36 cannabis, cannabis-infused products, and concentrated cannabis; condi-
37 tions of sanitation, and standards of ingredients, quality, and identity
38 of cannabis products cultivated, processed, packaged, or sold by regis-
39 tered organizations and licensees;
40 (e) security requirements for adult-use cannabis retail dispensaries
41 and premises where cannabis products, including medical cannabis, are
42 cultivated, produced, processed, or stored, and safety protocols for
43 registered organizations, licensees and their employees; and
16 (f) hearing procedures and additional causes for cancellation, revoca-
17 tion, and/or civil penalties against any person registered, licensed, or
18 permitted by the authority.
19 3. The office shall promulgate rules and regulations that are calcu-
20 lated to:
21 (a) prevent the distribution of adult-use cannabis to persons under
22 twenty-one years of age;
23 (b) prevent the revenue from the sale of cannabis from going to crimi-
24 nal enterprises, gangs, and cartels;
25 (c) prevent the diversion of cannabis from this state to other states;
26 (d) prevent cannabis activity that is legal under state law from being
27 used as a cover or pretext for the trafficking of other illegal drugs or
28 other illegal activity;
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1 (e) prevent violence and the use of firearms in the cultivation and
2 distribution of cannabis;
3 (f) prevent drugged driving and the exacerbation of other adverse
4 public health consequences associated with the use of cannabis;
5 (g) prevent the growing of cannabis on public lands and the attendant
6 public safety and environmental dangers posed by cannabis production on
7 public lands; and
8 (h) prevent the possession and use of cannabis on federal property.
9 4. The office, in consultation with the department of agriculture and
10 markets and the department of environmental conservation, shall promul-
11 gate necessary rules and regulations governing the safe production of
12 cannabis, including environmental and energy standards and restrictions
13 on the use of pesticides.
14 § 13. State cannabis advisory board. 1. The executive director shall
15 have the authority to establish within the office a state cannabis advi-
16 sory board, which may advise the office on cannabis cultivation, proc-
17 essing, distribution, transport, testing and sale and consider all
18 matters submitted to it by the executive director.

19 2. The executive director of the office shall serve as the chairperson
20 of the board. The vice chairperson shall be elected from among the
21 members of the board by the members of such board, and shall represent
22 the board in the absence of the chairperson at all official board func-
23 tions.

24 3. The members of the board shall receive no compensation for their
25 services but shall be allowed their actual and necessary expenses
26 incurred in the performance of their duties as board members.

27 4. The executive director shall be authorized to promulgate regu-
28 lations establishing the number of members on the board, the term of the
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1 board members and any other terms or conditions regarding the state
2 cannabis advisory board.

3 § 14. Disposition of moneys received for license fees. The office
4 shall establish a scale of application, licensing, and renewal fees,
5 based upon the cost of enforcing this chapter and the size of the canna-
6 bis business being licensed, as follows:

7 1. The office shall charge each registered organization, licensee and
8 permittee a registration, licensure or permit fee, and renewal fee, as
9 applicable. The fees may vary depending upon the nature and scope of
10 the different registration, licensure and permit activities.

11 2. The total fees assessed pursuant to this chapter shall be set at an
12 amount that will generate sufficient total revenue to, at a minimum,
13 fully cover the total costs of administering this chapter.
14 3. All registration and licensure fees shall be set on a scaled basis by the office, dependent on the size of the business.

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

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

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

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

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

12 4. Nothing in this section shall be construed to alter or repeal any
13 existing provision of law declaring such violations to be misdemeanors
14 or felonies or prescribing the penalty therefor.
15 5. Such civil penalty may be released or compromised by the executive
director before the matter has been referred to the attorney general,
17 and where such matter has been referred to the attorney general, any
18 such penalty may be released or compromised and any action commenced to
19 recover the same may be settled and discontinued by the attorney general
20 with the consent of the executive director.
21 6. It shall be the duty of the attorney general upon the request of
22 the executive director to bring an action for an injunction against any
23 person who violates, disobeys or disregards any term or provision of
24 this chapter or of any lawful notice, order or regulation pursuant ther-
25 26 attorney general with such material, evidentiary matter or proof as may
27 be requested by the attorney general for the prosecution of such an
28 action.
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1 7. It is the purpose of this section to provide additional and cumula-
2 tive remedies, and nothing herein contained shall abridge or alter
3 rights of action or remedies now or hereafter existing, nor shall any
4 provision of this section, nor any action done by virtue of this
5 section, be construed as estopping the state, persons or municipalities
6 in the exercising of their respective rights.
7 § 17. Formal hearings; notice and procedure. 1. The executive direc-
8 tor, or any person designated by him or her for this purpose, may issue
9 subpoenas and administer oaths in connection with any hearing or inves-
10 tigation under or pursuant to this chapter, and it shall be the duty of
11 the executive director and any persons designated by him or her for such
12 purpose to issue subpoenas at the request of and upon behalf of the
13 respondent.

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

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

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

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

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

8 7. The executive director may adopt, amend and repeal administrative
9 rules and regulations governing the procedures to be followed with
10 respect to hearings, such rules to be consistent with the policy and
11 purpose of this chapter and the effective and fair enforcement of its
12 provisions.
13 8. The provisions of this section shall be applicable to all hearings
14 held pursuant to this chapter, except where other provisions of this
15 chapter applicable thereto are inconsistent therewith, in which event
16 such other provisions shall apply.
17 § 18. Ethics, transparency and accountability. No member of the
18 office or any officer, deputy, assistant, inspector or employee thereof
19 shall have any interest, direct or indirect, either proprietary or by
20 means of any loan, mortgage or lien, or in any other manner, in or on
21 any premises where cannabis, medical cannabis or hemp is cultivated,
22 processed, distributed or sold; nor shall he or she have any interest,
23 direct or indirect, in any business wholly or partially devoted to the
24 cultivation, processing, distribution, sale, transportation or storage
25 of cannabis, medical cannabis or hemp, or own any stock in any corpo-
26 ration which has any interest, proprietary or otherwise, direct or indi-
27 rect, in any premises where cannabis, medical cannabis or hemp is culti-
28 vated, processed, distributed or sold, or in any business wholly or
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1 partially devoted to the cultivation, processing, distribution, sale,
2 transportation or storage of cannabis, medical cannabis or hemp, or
3 receive any commission or profit whatsoever, direct or indirect, from
4 any person applying for or receiving any license or permit provided for
5 in this chapter, or hold any other elected or appointed public office in
6 the state or in any political subdivision. Anyone who violates any of
7 the provisions of this section shall be removed or shall divulge him or
8 herself of such direct or indirect interests.
9 § 19. Public health campaign. The office, in consultation with the
10 commissioners of the department of health, office of alcoholism and
11 substance abuse services and office of mental health, shall develop and
12 implement a comprehensive public health campaign regarding adult-use
13 cannabis.

14 ARTICLE 3
15 MEDICAL CANNABIS
16 Section 30. Certification of patients.
17 31. Lawful medical use.
18 32. Registry identification cards.
19 33. Registration as a designated caregiver facility.
20 34. Registered organizations.
21 35. Registering of registered organizations.
22 36. Expedited registration of registered organizations.
23 37. Reports of registered organizations.
24 38. Evaluation; research programs; report by office.
26 40. Registered organizations and adult-use cannabis.
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27 41. Home cultivation of medical cannabis.
28 42. Relation to other laws.
29 43. Protections for the medical use of cannabis.
30 44. Regulations.
31 45. Suspend; terminate.
32 46. Pricing.
33 47. Severability.
34 § 30. Certification of patients. 1. A patient certification may only
35 be issued if:
36 (a) the patient has a serious condition, which shall be specified in
11 the patient's health care record;
12 (b) the practitioner by training or experience is qualified to treat
13 the serious condition;
14 (c) the patient is under the practitioner's continuing care for the
15 serious condition; and
16 (d) in the practitioner's professional opinion and review of past
17 treatments, the patient is likely to receive therapeutic or palliative
18 benefit from the primary or adjunctive treatment with medical use of
19 cannabis for the serious condition.
20 2. The certification shall include: (a) the name, date of birth and
21 address of the patient; (b) a statement that the patient has a serious
22 condition and the patient is under the practitioner's care for the seri-
23 ous condition; (c) a statement attesting that all requirements of subdi-
24 vision one of this section have been satisfied; (d) the date; and (e)
25 the name, address, telephone number, and the signature of the certifying
26 practitioner. The executive director may require by regulation that the
27 certification shall be on a form provided by the office. The practitio-
28 ner may state in the certification that, in the practitioner's profes01/
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1 sional opinion, the patient would benefit from medical cannabis only
2 until a specified date. The practitioner may state in the certification
3 that, in the practitioner's professional opinion, the patient is termi-
4 nally ill and that the certification shall not expire until the patient
5 dies.
6 3. In making a certification, the practitioner may consider the form
7 of medical cannabis the patient should consume, including the method of
8 consumption and any particular strain, variety, and quantity or percent-
9 age of cannabis or particular active ingredient, and appropriate dosage.
10 The practitioner may state in the certification any recommendation or
11 limitation the practitioner makes, in his or her professional opinion,
12 concerning the appropriate form or forms of medical cannabis and dosage.
13 4. Every practitioner shall consult the prescription monitoring
14 program registry prior to making or issuing a certification, for the
15 purpose of reviewing a patient's controlled substance history. For
16 purposes of this section, a practitioner may authorize a designee to
17 consult the prescription monitoring program registry on his or her
18 behalf, provided that such designation is in accordance with section
19 thirty-three hundred forty-three-a of the public health law.
20 5. The practitioner shall give the certification to the certified
21 patient, and place a copy in the patient's health care record.
22 6. No practitioner shall issue a certification under this section for
23 himself or herself.
24 7. A registry identification card based on a certification shall
25 expire one year after the date the certification is signed by the prac-
26 tioner.
27 8. (a) If the practitioner states in the certification that, in the
28 practitioner's professional opinion, the patient would benefit from
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1 medical cannabis only until a specified earlier date, then the registry
2 identification card shall expire on that date; (b) if the practitioner
3 states in the certification that in the practitioner's professional
4 opinion the patient is terminally ill and that the certification shall
5 not expire until the patient dies, then the registry identification card
6 shall state that the patient is terminally ill and that the registration
7 card shall not expire until the patient dies; (c) if the practitioner
8 re-issues the certification to terminate the certification on an earlier
date, then the registry identification card shall expire on that date
and shall be promptly destroyed by the certified patient; (d) if the
 certification so provides, the registry identification card shall state
any recommendation or limitation by the practitioner as to the form or
forms of medical cannabis or dosage for the certified patient; and (e)
the executive director shall make regulations to implement this subdivi-
sion.
§ 31. Lawful medical use. 1. The possession, acquisition, use, deliv-
ery, transfer, transportation, or administration of medical cannabis by
a certified patient, designated caregiver or designated caregiver facil-
ity, for certified medical use, shall be lawful under this article
provided that:
(a) the cannabis that may be possessed by a certified patient shall
not exceed a sixty-day supply of the dosage as determined by the practi-
tioner, consistent with any guidance and regulations issued by the exec-
utive director, provided that during the last seven days of any sixty-
day period, the certified patient may also possess up to such amount for
the next sixty-day period;
(b) the cannabis that may be possessed by designated caregivers does
not exceed the quantities referred to in paragraph (a) of this subdivi-
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1 sion for each certified patient for whom the caregiver possesses a valid
registry identification card, up to five certified patients;
(c) the cannabis that may be possessed by designated caregiver facili-
ties does not exceed the quantities referred to in paragraph (a) of this
subdivision for each certified patient under the care or treatment of
the facility;
(d) the form or forms of medical cannabis that may be possessed by the
8 certified patient, designated caregiver or designated caregiver facility
9 pursuant to a certification shall be in compliance with any recommenda-
10 tion or limitation by the practitioner as to the form or forms of
11 medical cannabis or dosage for the certified patient in the certif-
12 ication; and
13 (e) the medical cannabis shall be kept in the original package in
14 which it was dispensed under this article, except for the portion
15 removed for immediate consumption for certified medical use by the
16 certified patient.
17 2. Notwithstanding subdivision one of this section:
18 (a) possession of medical cannabis shall not be lawful under this
19 article if it is smoked or grown in a public place, regardless of the
20 form of medical cannabis stated in the patient's certification.
21 (b) a person possessing medical cannabis under this chapter shall
22 possess his or her registry identification card at all times when in
23 immediate possession of medical cannabis.
24 § 32. Registry identification cards. 1. Upon approval of the certif-
25 ication, the office shall issue registry identification cards for certi-
26 fied patients and designated caregivers. A registry identification card
27 shall expire as provided in this article or as otherwise provided in
28 this section. The office shall begin issuing registry identification
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1 cards as soon as practicable after the certifications required by this
2 chapter are granted. The office may specify a form for a registry appli-
3 cation, in which case the office shall provide the form on request,
4 reproductions of the form may be used, and the form shall be available
5 for downloading from the office's website.
6 2. To obtain, amend or renew a registry identification card, a certi-
7 fied patient or designated caregiver shall file a registry application
8 with the office, unless otherwise exempted by the executive director in
9 regulation. The registry application or renewal application shall
10 include:
11 (a) in the case of a certified patient:
12 (i) the patient's certification, a new written certification shall be
13 provided with a renewal application;
14 (ii) the name, address, and date of birth of the patient;
15 (iii) the date of the certification;
16 (iv) if the patient has a registry identification card based on a
17 current valid certification, the registry identification number and
18 expiration date of that registry identification card;
19 (v) the specified date until which the patient would benefit from
20 medical cannabis, if the certification states such a date;
21 (vi) the name, address, and telephone number of the certifying practi-
22 tioner;
23 (vii) any recommendation or limitation by the practitioner as to the
24 form or forms of medical cannabis or dosage for the certified patient;
25 (viii) if the certified patient designates a designated caregiver, the
26 name, address, and date of birth of the designated caregiver, and other
27 individual identifying information required by the office; and
28 (ix) other individual identifying information required by the office;
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1 (b) in the case of a designated caregiver:
2 (i) the name, address, and date of birth of the designated caregiver;
3 (ii) if the designated caregiver has a registry identification card,
4 the registry identification number and expiration date of that registry
5 identification card; and
6 (iii) other individual identifying information required by the office;
7 (c) a statement that a false statement made in the application is
8 punishable under section 210.45 of the penal law;
9 (d) the date of the application and the signature of the certified
10 patient or designated caregiver, as the case may be;
11 (e) any other requirements determined by the executive director.

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

(a) The application for a registry identification card shall be made
by an appropriate person over eighteen years of age. The application
shall state facts demonstrating that the person is appropriate.

(b) The designated caregiver shall be: (i) a parent or legal guardian
of the certified patient; (ii) a person designated by a parent or legal
guardian; (iii) a designated caregiver facility; or (iv) an appropriate
person approved by the office upon a sufficient showing that no parent
or legal guardian is appropriate or available.

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

5. No person may be a designated caregiver for more than five certi-
fied patients at one time.

6. If a certified patient wishes to change or terminate his or her
designated caregiver, for whatever reason, the certified patient shall
notify the office as soon as practicable. The office shall issue a
notification to the designated caregiver that their registration card is
5 invalid and must be promptly destroyed. The newly designated caregiver
6 must comply with all requirements set forth in this section.
7 7. If the certification so provides, the registry identification card
8 shall contain any recommendation or limitation by the practitioner as to
9 the form or forms of medical cannabis or dosage for the certified
10 patient.
11 8. The office shall issue separate registry identification cards for
12 certified patients and designated caregivers as soon as reasonably prac-
13 ticable after receiving a complete application under this section,
14 unless it determines that the application is incomplete or factually
15 inaccurate, in which case it shall promptly notify the applicant.
16 9. If the application of a certified patient designates an individual
17 as a designated caregiver who is not authorized to be a designated care-
18 giver, that portion of the application shall be denied by the office but
19 that shall not affect the approval of the balance of the application.
20 10. A registry identification card shall:
21 (a) contain the name of the certified patient or the designated care-
22 giver as the case may be;
23 (b) contain the date of issuance and expiration date of the registry
24 identification card;
25 (c) contain a registry identification number for the certified patient
26 or designated caregiver, as the case may be and a registry identifica-
27 tion number;
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1 (d) contain a photograph of the individual to whom the registry iden-
2 tification card is being issued, which shall be obtained by the office
3 in a manner specified by the executive director in regulations;
4 provided, however, that if the office requires certified patients to
5 submit photographs for this purpose, there shall be a reasonable accom-
6 modation of certified patients who are confined to their homes due to
7 their medical conditions and may therefore have difficulty procuring
8 photographs;
9 (e) be a secure document as determined by the office;
10 (f) plainly state any recommendation or limitation by the practitioner
11 as to the form or forms of medical cannabis or dosage for the certified
12 patient; and
13 (g) any other requirements determined by the executive director.
14 11. A certified patient or designated caregiver who has been issued a
15 registry identification card shall notify the office of any change in
16 his or her name or address or, with respect to the patient, if he or she
17 ceases to have the serious condition noted on the certification within
18 ten days of such change. The certified patient's or designated
19 caregiver's registry identification card shall be deemed invalid and
20 shall be promptly destroyed.
21 12. If a certified patient or designated caregiver loses his or her
22 registry identification card, he or she shall notify the office within
23 ten days of losing the card. The office shall issue a new registry iden-
24 tification card as soon as practicable, which may contain a new registry
25 identification number, to the certified patient or designated caregiver,
26 as the case may be.
27 13. The office shall maintain a confidential list of the persons to
28 whom it has issued registry identification cards. Individual identifying
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1 information obtained by the office under this article shall be confiden-
2 tial and exempt from disclosure under article six of the public officers
3 law. Notwithstanding this subdivision, the office may notify any appro-
4. The office shall verify to law enforcement personnel in an appro-
7 priate case whether a registry identification card is valid.
8
9. If a certified patient or designated caregiver willfully violates
10 any provision of this article as determined by the executive director,
11 his or her certification and registry identification card may be
12 suspended or revoked. This is in addition to any other penalty that may
13 apply.

13 § 33. Registration as a designated caregiver facility. 1. To obtain,
14 amend or renew a registration as a designated caregiver facility, the
15 facility shall file a registry application with the office. The registry
16 application or renewal application shall include:
17 (a) the facility's full name and address;
18 (b) operating certificate or license number where appropriate;
19 (c) printed name, title, and signature of an authorized facility
20 representative;
21 (d) a statement that the facility agrees to secure and ensure proper
22 handling of all medical cannabis products;
23 (e) an acknowledgement that a false statement in the application is
24 punishable under section 210.45 of the penal law; and
25 (f) any other information that may be required by the executive direc-
26 tor.

27 2. Prior to issuing or renewing a designated caregiver facility regis-
28 tration, the office may verify the information submitted by the appli01/
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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 inaccurate an initial or renewal application within thirty days of receipt of the application. If the application is approved within the 30-day period, the office shall issue a registration as soon as is reasonably practicable.

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

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

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

2. The acquiring, possession, manufacture, sale, delivery, transporting, distributing or dispensing of medical cannabis by a registered organization under this article in accordance with its registration under this article or a renewal thereof shall be lawful under this chapter.

3. Each registered organization shall contract with an independent laboratory permitted by the office to test the medical cannabis produced by the registered organization. The executive director shall approve the contract.

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1 by the registered organization. The executive director shall approve the
2 laboratory used by the registered organization and may require that the
3 registered organization use a particular testing laboratory.

4 4. (a) A registered organization may lawfully, in good faith, sell,
5 deliver, distribute or dispense medical cannabis to a certified patient
6 or designated caregiver upon presentation to the registered organization
7 of a valid registry identification card for that certified patient or
8 designated caregiver. When presented with the registry identification
9 card, the registered organization shall provide to the certified patient
10 or designated caregiver a receipt, which shall state: the name, address,
11 and registry identification number of the registered organization; the
12 name and registry identification number of the certified patient and the
13 designated caregiver, if any; the date the cannabis was sold; any recom-
14 mendation or limitation by the practitioner as to the form or forms of
15 medical cannabis or dosage for the certified patient; and the form and
16 the quantity of medical cannabis sold. The registered organization shall
17 retain a copy of the registry identification card and the receipt for
18 six years.

19 (b) The proprietor of a registered organization shall file or cause to
20 be filed any receipt and certification information with the office by
21 electronic means on a real-time basis as the executive director shall
22 require by regulation. When filing receipt and certification information
23 electronically pursuant to this paragraph, the proprietor of the regis-
24 tered organization shall dispose of any electronically recorded
25 prescription information in such manner as the executive director shall
26 by regulation require.

27 5. (a) No registered organization may sell, deliver, distribute or
28 dispense to any certified patient or designated caregiver a quantity of

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1 medical cannabis larger than that individual would be allowed to possess
2 under this chapter.

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

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

14 6. When a registered organization sells, delivers, distributes or
15 dispenses medical cannabis to a certified patient or designated caregiv-
16 er, it shall provide to that individual a safety insert, which will be
17 developed by the registered organization and approved by the executive
18 director and include, but not be limited to, information on:
19 (a) methods for administering medical cannabis in individual doses,
20 (b) any potential dangers stemming from the use of medical cannabis,
21 (c) how to recognize what may be problematic usage of medical cannabis
22 and obtain appropriate services or treatment for problematic usage, and
23 (d) other information as determined by the executive director.

24 7. Registered organizations shall not be managed by or employ anyone
25 who has been convicted of any felony other than for the sale or
26 possession of drugs, narcotics, or controlled substances, and provided
27 that this subdivision only applies to (a) managers or employees who come
28 into contact with or handle medical cannabis, and (b) a conviction less
than ten years, not counting time spent in incarceration, prior to being
employed, for which the person has not received a certificate of relief
from disabilities or a certificate of good conduct under article twen-
ty-three of the correction law.

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

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

10. A registered organization shall determine the quality, safety, and
clinical strength of medical cannabis manufactured or dispensed by the
registered organization, and shall provide documentation of that quali-
ty, safety and clinical strength to the office and to any person or
entity to which the medical cannabis is sold or dispensed.

11. A registered organization shall be deemed to be a “health care
provider” for the purposes of article two-D of article two of the public
health law.

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

13. The executive director is authorized to make rules and regulations
9 restricting the advertising and marketing of medical cannabis.

10 § 35. Registering of registered organizations. 1. Application for
11 initial registration. (a) An applicant for registration as a registered
12 organization under section thirty-four of this article shall include
13 such information prepared in such manner and detail as the executive
14 director may require, including but not limited to:
15 (i) a description of the activities in which it intends to engage as a
16 registered organization;
17 (ii) that the applicant:
18 (A) is of good moral character;
19 (B) possesses or has the right to use sufficient land, buildings, and
20 other premises, which shall be specified in the application, and equip-
21 ment to properly carry on the activity described in the application, or
22 in the alternative posts a bond of not less than two million dollars;
23 (C) is able to maintain effective security and control to prevent
24 diversion, abuse, and other illegal conduct relating to the cannabis;
25 and
26 (D) is able to comply with all applicable state laws and regulations
27 relating to the activities in which it intends to engage under the
28 registration;

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

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

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

13 (A) any position of management or ownership during the preceding ten
14 years of a ten per centum or greater interest in any other business,
15 located in or outside this state, manufacturing or distributing drugs;
16 (B) whether such person or any such business has been convicted of a
17 felony or had a registration or license suspended or revoked in any
18 administrative or judicial proceeding; and
19 (C) such other information as the executive director may reasonably
20 require.

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

25 3. (a) The executive director shall grant a registration or amendment
26 to a registration under this section if he or she is satisfied that:
27 (i) the applicant will be able to maintain effective control against
diversion of cannabis;
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1 (ii) the applicant will be able to comply with all applicable state
2 laws;
3 (iii) the applicant and its officers are ready, willing and able to
4 properly carry on the manufacturing or distributing activity for which a
5 registration is sought;
6 (iv) the applicant possesses or has the right to use sufficient land,
7 buildings and equipment to properly carry on the activity described in
8 the application;
9 (v) it is in the public interest that such registration be granted,
10 including but not limited to:
11 (A) whether the number of registered organizations in an area will be
12 adequate or excessive to reasonably serve the area;
13 (B) whether the registered organization is a minority and/or woman
14 owned business enterprise or a service-disabled veteran-owned business;
15 (C) whether the registered organization provides education and
16 outreach to practitioners;
17 (D) whether the registered organization promotes the research and
18 development of medical cannabis and patient outreach; and
19 (E) the affordability medical cannabis products offered by the regis-
tered organization;
21 (vi) the applicant and its managing officers are of good moral charac-
ter;
22 (vii) the applicant has entered into a labor peace agreement with a
23 bona fide labor organization that is actively engaged in representing or
25 attempting to represent the applicant's employees; and
26 (viii) the applicant satisfies any other conditions as determined by
27 the executive director.

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1 (b) If the executive director is not satisfied that the applicant
2 should be issued a registration, he or she shall notify the applicant in
3 writing of those factors upon which the denial is based. Within thirty
4 days of the receipt of such notification, the applicant may submit a
5 written request to the executive director to appeal the decision.
6 (c) The fee for a registration under this section shall be an amount
7 determined by the office in regulations; provided, however, if the
8 registration is issued for a period greater than two years the fee shall
9 be increased, pro rata, for each additional month of validity.
10 (d) Registrations issued under this section shall be effective only
11 for the registered organization and shall specify:
12 (i) the name and address of the registered organization;
13 (ii) which activities of a registered organization are permitted by
14 the registration;
15 (iii) the land, buildings and facilities that may be used for the
16 permitted activities of the registered organization; and
17 (iv) such other information as the executive director shall reasonably
18 provide to assure compliance with this article.
19 (e) Upon application of a registered organization, a registration may
20 be amended to allow the registered organization to relocate within the
21 state or to add or delete permitted registered organization activities
22 or facilities. The fee for such amendment shall be two hundred fifty
23 dollars.
24 4. A registration issued under this section shall be valid for two
25 years from the date of issue, except that in order to facilitate the
26 renewals of such registrations, the executive director may upon the
27 initial application for a registration, issue some registrations which
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1 may remain valid for a period of time greater than two years but not
2 exceeding an additional eleven months.
3 5. (a) An application for the renewal of any registration issued
4 under this section shall be filed with the office not more than six
5 months nor less than four months prior to the expiration thereof. A
6 late-filed application for the renewal of a registration may, in the
7 discretion of the executive director, be treated as an application for
8 an initial license.
9 (b) The application for renewal shall include such information
10 prepared in the manner and detail as the executive director may require,
11 including but not limited to:
12 (i) any material change in the circumstances or factors listed in
13 subdivision one of this section; and
14 (ii) every known charge or investigation, pending or concluded during
15 the period of the registration, by any governmental or administrative
16 agency with respect to:
17 (A) each incident or alleged incident involving the theft, loss, or
18 possible diversion of cannabis manufactured or distributed by the appli-
19 cant; and
20 (B) compliance by the applicant with the laws of the state with
21 respect to any substance listed in section thirty-three hundred six of
22 the public health law.
23 (c) An applicant for renewal shall be under a continuing duty to
24 report to the office any change in facts or circumstances reflected in
the application or any newly discovered or occurring fact or circum-
stance which is required to be included in the application.

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

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

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

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

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

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

(b) For purposes of this section, proof that a registered organiza-
tion, during the period of its registration, has failed to maintain
effective control against diversion, violates any provision of this
article, or has knowingly or negligently failed to comply with applica-
tble state laws relating to the activities in which it engages under the
24 registration, shall constitute grounds for suspension, termination or
25 limitation of the registered organization’s registration or as deter-
26 mined by the executive director. The registered organization shall also
27 be under a continuing duty to report to the authority any material
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1 change or fact or circumstance to the information provided in the regis-
2 tered organization’s application.
3 7. The office may suspend or terminate the registration of a regis-
4 tered organization, on grounds and using procedures under this article
5 relating to a license, to the extent consistent with this article. The
6 authority shall suspend or terminate the registration in the event that
7 a registered organization violates or terminates the applicable labor
8 peace agreement. Conduct in compliance with this article which may
9 violate conflicting federal law, shall not be grounds to suspend or
10 terminate a registration.
11 8. The office shall begin issuing registrations for registered organ-
12 izations as soon as practicable after the certifications required by
13 this article are given.
14 9. The executive director shall register at least ten registered
15 organizations that manufacture medical cannabis with no more than four
16 dispensing sites wholly owned and operated by such registered organiza-
17 tion. The executive director shall ensure that such registered organiza-
18 tions and dispensing sites are geographically distributed across the
19 state. The executive director may register additional registered organ-
20 izations.
21 § 36. Expedited registration of registered organizations. 1. There is
22 hereby established in the office an emergency medical cannabis access
23 program, referred to in this section as the “program”, under this
The purpose of the program is to expedite the availability of medical cannabis to avoid suffering and loss of life, during the period before full implementation of and production under this article, especially in the case of patients whose serious condition is progressive and degenerative or is such that delay in the patient's medical use of cannabis poses a serious risk to the patient's life or health. The executive director shall implement the program as expeditiously as practicable, including by emergency regulation.

2. For the purposes of this section, and for specified limited times, the executive director may waive or modify the requirements of this article relating to registered organizations, consistent with the legislative intent and purpose of this article and this section. Where an entity seeking to be a registered organization under the program operates in a jurisdiction other than the state of New York, under licensure or other governmental recognition of that jurisdiction, and the laws of that jurisdiction are acceptable to the executive director as consistent with the legislative intent and purpose of this article and this section, then the executive director may accept that licensure or recognition as wholly or partially satisfying the requirements of this article, for purposes of the registration and operation of the registered organization under the program and this section.

3. In considering an application for registration as a registered organization under this section, the executive director shall give preference to the following:

(a) an applicant that is currently producing or providing or has a history of producing or providing medical cannabis in another jurisdiction in full compliance with the laws of the jurisdiction;
23 (b) an applicant that is able and qualified to both produce, distribute, and dispense medical cannabis to patients expeditiously; and
24 (c) an applicant that proposes a location or locations for dispensing by the registered organization, which ensure, to the greatest extent possible, that certified patients have access to a registered organization.

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14. The executive director may make regulations under this section:
15 (a) limiting registered organizations registered under this section;
16 or
17 (b) limiting the allowable levels of cannabidiol and tetrahydrocannabinol that may be contained in medical cannabis authorized under this article, based on therapeutics and patient safety.

75. A registered organization under this section may apply under this article to receive or renew registration.

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

14 2. The executive director shall, by regulation, require each registered organization to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all medical cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, distributing, or dispensing by the registered organization, subject to regulations of the executive director.

20 § 38. Evaluation; research programs; report by office. 1. The executive director may provide for the analysis and evaluation of the opera-
tion of this title. The executive director may enter into agreements
with one or more persons, not-for-profit corporations or other organiza-
tions, for the performance of an evaluation of the implementation and
effectiveness of this title.

26 2. The office may develop, seek any necessary federal approval for,
and carry out research programs relating to medical use of cannabis.

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1 Participation in any such research program shall be voluntary on the
2 part of practitioners, patients, and designated caregivers.

3 3. The office shall report every two years, beginning two years after
4 the effective date of this chapter, to the governor and the legislature
5 on the medical use of cannabis under this title and make appropriate
6 recommendations.

7 § 39. Cannabis research license. 1. The executive director shall
8 establish a cannabis research license that permits a licensee to
9 produce, process, purchase and possess cannabis for the following limit-
ed research purposes:
11 (a) to test chemical potency and composition levels;
12 (b) to conduct clinical investigations of cannabis-derived drug
13 products;
14 (c) to conduct research on the efficacy and safety of administering
15 cannabis as part of medical treatment; and
16 (d) to conduct genomic or agricultural research.

17 2. As part of the application process for a cannabis research license,
an applicant must submit to the office a description of the research
that is intended to be conducted as well as the amount of cannabis to be
grown or purchased. The office shall review an applicant's research
project and determine whether it meets the requirements of subsection
one of this section. In addition, the office shall assess the applica-
tion based on the following criteria:
(a) project quality, study design, value, and impact;
(b) whether the applicant has the appropriate personnel, expertise,
facilities and infrastructure, funding, and human, animal, or other
approvals in place to successfully conduct the project; and
(c) whether the amount of cannabis to be grown or purchased by the
applicant is consistent with the project's scope and goals. If the
office determines that the research project does not meet the require-
ments of subsection one of this section, the application must be denied.

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

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

5. In establishing a cannabis research license, the executive director
may adopt regulations on the following:
(a) application requirements;
(b) cannabis research license renewal requirements, including whether
additional research projects may be added or considered;
(c) conditions for license revocation;
(d) security measures to ensure cannabis is not diverted to purposes
other than research;
(e) amount of plants, useable cannabis, cannabis concentrates, or
cannabis-infused products a licensee may have on its premises;
22 (f) licensee reporting requirements;
23 (g) conditions under which cannabis grown by licensed cannabis produc-
24 ers and other product types from licensed cannabis processors may be
25 donated to cannabis research licensees; and
26 (h) any additional requirements deemed necessary by the office.
27 6. A cannabis research license issued pursuant to this section must be
28 issued in the name of the applicant, specify the location at which the
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1 cannabis researcher intends to operate, which must be within the state
2 of New York, and the holder thereof may not allow any other person to
3 use the license.
4 7. The application fee for a cannabis research license shall be deter-
5 mined by the executive director on an annual basis.
6 8. Each cannabis research licensee shall issue an annual report to the
7 office. The office shall review such report and make a determination as
8 to whether the research project continues to meet the research quali-
9 fications under this section.
10 § 40. Registered organizations and adult-use cannabis. 1. The execu-
11 tive director shall have the authority to grant some or all of the
12 registered organizations previously registered with the department of
13 health and currently registered and in good standing with the office,
14 the ability to be licensed to cultivate, process, distribute and sell
15 adult-use cannabis and cannabis products, pursuant to any fees, rules or
16 conditions prescribed by the executive director in regulation, but
17 exempt from the restrictions on licensed adult-use cultivators, process-
18 ors, and distributors from having any ownership interest in a licensed
19 adult-use retail dispensary pursuant to article four of this chapter.
20 2. The office shall have the authority to hold a competitive bidding
21 process, including an auction, to determine the registered
22 organization(s) authorized to be licensed to cultivate, process,
23 distribute and sell adult-use cannabis and to collect the fees generated
24 from such auction to administer incubators and low or zero-interest
25 loans to qualified social equity applicants. The timing and manner in
26 which registered organizations may be granted such authority shall be
27 determined by the executive director in regulation.

1 3. Alternatively, registered organizations may apply for licensure as
2 an adult-use cannabis cultivator, adult-use cannabis processor, and
3 adult-use cannabis distributor, or apply for licensure as an adult-use
4 cannabis retail dispensary, subject to all of the restrictions and limi-
5 tations set forth in article four of this chapter.

6 § 41. Home cultivation of medical cannabis. 1. Certified patients and
7 their designated caregiver(s) twenty-one years of age or older may apply
8 for registration with the office to grow, possess or transport no more
9 than four cannabis plants per certified patient with no more than eight
10 cannabis plants per household.

11 2. All medical cannabis cultivated at home must be grown in an
12 enclosed, locked space, not open or viewable to the public. Such homeg-
13 rown medical cannabis must only be for use by the certified patient and
14 may not be distributed, sold, or gifted.

15 3. The executive director shall develop rules and regulations govern-
16 ing this section.

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

20 2. Medical cannabis shall not be deemed to be a "drug" for purposes of
§ 43. Protections for the medical use of cannabis. 1. Certified patients, designated caregivers, designated caregiver facilities, practitioners, registered organizations and the employees of registered organizations, and cannabis researchers shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for the certified medical use or manufacture of cannabis, or for any other action or conduct in accordance with this article.

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

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

4. (a) Certification applications, certification forms, any certified patient information contained within a database, and copies of registry identification cards shall be deemed exempt from public disclosure under sections eighty-seven and eighty-nine of the public officers law.
20 (b) The name, contact information, and other information relating to
21 practitioners registered with the office under this article shall be
22 public information and shall be maintained by the executive director on
23 the office's website accessible to the public in searchable form. Howev-
24 er, if a practitioner notifies the office in writing that he or she does
25 not want his or her name and other information disclosed, that practi-
26 tioner's name and other information shall thereafter not be public
27 information or maintained on the office's website, unless the practi-
28 tioner cancels the request.

§ 44. Regulations. The executive director shall make regulations to
2 implement this article.

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

§ 46. Pricing. 1. Every sale of medical cannabis shall be at or below
8 the price approved by the executive director. Every charge made or
9 demanded for medical cannabis not in accordance with the price approved
10 by the executive director, is prohibited.
11 2. The executive director is hereby authorized to set the per dose
12 price of each form of medical cannabis sold by any registered organiza-
13 tion. In reviewing the per dose price of each form of medical cannabis,
14 the executive director may consider the fixed and variable costs of
15 producing the form of cannabis and any other factor the executive direc-
16 tor, in his or her discretion, deems relevant in reviewing the per dose
17 price of each form of medical cannabis.

§ 47. Severability. If any clause, sentence, paragraph, section or
19 part of this article shall be adjudged by any court of competent juris-
20 diction to be invalid, the judgment shall not affect, impair, or invali-
21 date the remainder thereof, but shall be confined in its operation to
22 the clause, sentence, paragraph, section or part thereof directly
23 involved in the controversy in which the judgment shall have been
24 rendered.
25 ARTICLE 4
26 ADULT-USE CANNABIS
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1 Section 60. Licenses issued.
2 61. License application.
3 62. Information to be requested in applications for licenses.
4 63. Fees.
5 64. Selection criteria.
6 65. Limitations of licensure; duration.
7 66. License renewal.
8 67. Amendments; changes in ownership and organizational struc-
9 ture.
10 68. Adult-use cultivator license.
11 69. Adult-use processor license.
12 70. Adult-use cooperative license.
13 71. Adult-use distributor license.
14 72. Adult-use retail dispensary license.
15 73. Notification to municipalities of adult-use retail dispen-
16 sary.
17 74. On-site consumption license; provisions governing on-site
18 consumption licenses.
19 75. Record keeping and tracking.
20 76. Inspections and ongoing requirements.
21 77. Adult-use cultivators, processors or distributors not to be
22 interested in retail dispensaries.
23 78. Packaging and labeling of adult-use cannabis products.
24 79. Laboratory testing.
25 80. Provisions governing the cultivation and processing of
26 adult-use cannabis.
28 82. Provisions governing adult-use cannabis retail dispensaries.
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1 83. Adult-use cannabis advertising.
2 84. Minority, women-owned businesses and disadvantaged farmers;
3 incubator program.
4 85. Collective bargaining.
5 86. Regulations.
6 § 60. Licenses issued. The following kinds of licenses shall be
7 issued by the executive director for the cultivation, processing,
8 distribution and sale of cannabis to cannabis consumers:
9 1. Adult-use cultivator license;
10 2. Adult-use processor license;
11 3. Adult-use cooperative license;
12 4. Adult-use distributor license;
13 5. Adult-use retail dispensary license;
14 6. On-site consumption license; and
15 7. Any other type of license as prescribed by the executive director
16 in regulation.
17 § 61. License Application. 1. Any person may apply to the office for
18 a license to cultivate, process, distribute or dispense cannabis within
19 this state for sale. Such application shall be in writing and verified
20 and shall contain such information as the office shall require. Such
21 application shall be accompanied by a check or draft for the amount
22 required by this article for such license. If the office shall approve
23 the application, it shall issue a license in such form as shall be
24 determined by its rules. Such license shall contain a description of the
25 licensed premises and in form and in substance shall be a license to the
26 person therein specifically designated to cultivate, process, distribute
27 or dispense cannabis in the premises therein specifically licensed.
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1 2. Except as otherwise provided in this article, a separate license
2 shall be required for each facility at which cultivation, processing,
3 distribution or retail dispensing is conducted.
4 3. An applicant shall not be denied a license under this article based
5 solely on a conviction for a violation of article two hundred twenty or
6 section 240.36 of the penal law, prior to the date article two hundred
7 twenty-one of the penal law took effect, or a conviction for a violation
8 of article two hundred twenty-one of the penal law after the effective
9 date of this chapter.
10 § 62. Information to be requested in applications for licenses. 1.
11 The office shall have the authority to prescribe the manner and form in
12 which an application must be submitted to the office for licensure under
13 this article.
14 2. The executive director is authorized to adopt regulations, includ-
15 ing by emergency rule, establishing information which must be included
16 on an application for licensure under this article. Such information may
17 include, but is not limited to: information about the applicant's iden-
18 tity, including racial and ethnic diversity; ownership and investment
19 information, including the corporate structure; evidence of good moral
20 character, including the submission of fingerprints by the applicant to
21 the division of criminal justice services; information about the prem-
22 ises to be licensed; financial statements; and any other information
23 prescribed by in regulation.
24 3. All license applications shall be signed by the applicant (if an
25 individual), by a managing partner (if a limited liability corporation),
26 by an officer (if a corporation), or by all partners (if a partnership).
27 Each person signing such application shall verify it or affirm it as
28 true under the penalties of perjury.
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1 4. All license or permit applications shall be accompanied by a check,
2 draft or other forms of payment as the office may require or authorize
3 in the amount required by this article for such license or permit.
4 5. If there be any change, after the filing of the application or the
5 granting of a license, in any of the facts required to be set forth in
6 such application, a supplemental statement giving notice of such change,
7 cost and source of money involved in the change, duly verified, shall be
8 filed with the office within ten days after such change. Failure to do
9 so shall, if willful and deliberate, be cause for revocation of the
10 license.
11 6. In giving any notice, or taking any action in reference to a regis-
12 tered organization or licensee of a licensed premises, the office may
13 rely upon the information furnished in such application and in any
14 supplemental statement connected therewith, and such information may be
15 presumed to be correct, and shall be binding upon a registered organiza-
16 tions, licensee or licensed premises as if correct. All information
17 required to be furnished in such application or supplemental statements
18 shall be deemed material in any prosecution for perjury, any proceeding
19 to revoke, cancel or suspend any license, and in the office’s determi-
20 nation to approve or deny the license.
21 7. The office may, in its discretion, waive the submission of any
22 category of information described in this section for any category of
23 license or permit, provided that it shall not be permitted to waive the
24 requirement for submission of any such category of information solely
25 for an individual applicant or applicants.
26 § 63. Fees. 1. The office shall have the authority to charge appli-
27 cants for licensure under this article a non-refundable application fee
28 and/or to auction licenses to bidders determined by the office to be
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1 qualified for such licensure based on the selection criteria in section
2 sixty-four of this article. Such fee may be based on the type of licen-
3 sure sought, cultivation and/or production volume, or any other factors
4 deemed reasonable and appropriate by the office to achieve the policy
5 and purpose of this chapter.
6 2. The office shall have the authority to charge licensees a biennial
7 license fee. Such fee shall be based on the amount of cannabis to be
8 cultivated, processed, distributed and/or dispensed by the licensee or
9 the gross annual receipts of the licensee for the previous license peri-
10 od, and any other factors deemed reasonable and appropriate by the
11 office.
12 § 64. Selection criteria. 1. The executive director shall develop
13 regulations for determining whether or not an applicant should be grant-
14 ed the privilege of an adult-use cannabis license, based on, but not
15 limited to, the following criteria:
16 (a) the applicant will be able to maintain effective control against
17 the illegal diversion of cannabis;
18 (b) the applicant will be able to comply with all applicable state
19 laws and regulations;
20 (c) the applicant and its officers are ready, willing, and able to
21 properly carry on the activities for which a license is sought;
22 (d) the applicant possesses or has the right to use sufficient land,
23 buildings, and equipment to properly carry on the activity described in
24 the application;
25 (e) it is in the public interest that such license be granted, taking
26 into consideration, but not limited to, the following criteria:
27 (i) that it is a privilege, and not a right, to cultivate, process,
28 distribute, and sell cannabis;
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1 (ii) the number, classes, and character of other licenses in proximity
2 to the location and in the particular municipality or subdivision there-
3 of;
4 (iii) evidence that all necessary licenses and permits have been
5 obtained from the state and all other governing bodies;
6 (iv) effect of the grant of the license on pedestrian or vehicular
7 traffic, and parking, in proximity to the location;
8 (v) the existing noise level at the location and any increase in noise
9 level that would be generated by the proposed premises;
10 (vi) the history of violations under the alcoholic beverage control
11 law or the cannabis law at the location, as well as any pattern of
12 violations under the alcoholic beverage control law or the cannabis law,
13 and reported criminal activity at the proposed premises;
14 (vii) the effect on the production, price and availability of cannabis
15 and cannabis products; and
16 (viii) any other factors specified by law or regulation that are rele-
17 vant to determine that granting a license would promote public conven-
18 ience and advantage and the public interest of the community;
19 (f) the applicant and its managing officers are of good moral charac-
20 ter and do not have an ownership or controlling interest in more
21 licenses or permits than allowed by this chapter;
22 (g) the applicant has entered into a labor peace agreement with a
23 bona-fide labor organization that is actively engaged in representing or
24 attempting to represent the applicant's employees. In evaluating appli-
25 cations from entities with twenty-five or more employees, the office
26 shall give priority to applicants that are a party to a collective
27 bargaining agreement with a bona-fide labor organization in New York or
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1 in another state, or uses union labor to construct its licensed facili-
2 ty;
3 (h) the applicant will contribute to communities and people dispropor-
4 tionately harmed by cannabis law enforcement;
5 (i) if the application is for an adult-use cultivator license, the
6 environmental impact of the facility to be licensed; and
7 (j) the applicant satisfies any other conditions as determined by the
8 executive director.
9 2. If the executive director is not satisfied that the applicant
10 should be issued a license, the executive director shall notify the
11 applicant in writing of the specific reason or reasons for denial.
12 3. The executive director shall have authority and sole discretion to
13 determine the number of licenses issued pursuant to this article.
14 § 65. Limitations of licensure; duration. 1. No license of any kind
15 may be issued to a person under the age of twenty-one years, nor shall
16 any licensee employ anyone under the age of twenty-one years.
17 2. No person shall sell, deliver, or give away or cause or permit or
18 procure to be sold, delivered or given away any cannabis to any person,
19 actually or apparently, under the age of twenty-one years, any visibly
20 intoxicated person, or any habitually intoxicated person known to be
21 such by the person authorized to manufacture, traffic, or sell any
22 cannabis.
23 3. The office shall have the authority to limit, by canopy, plant
24 count, square footage or other means, the amount of cannabis allowed to
25 be grown, processed, distributed or sold by a licensee.
26 4. All licenses under this article shall expire two years after the
27 date of issue.

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1 § 66. License renewal. 1. Each license, issued pursuant to this arti-
2 cle, may be renewed upon application therefore by the licensee and the
3 payment of the fee for such license as prescribed by this article. In
4 the case of applications for renewals, the office may dispense with the
5 requirements of such statements as it deems unnecessary in view of those
6 contained in the application made for the original license, but in any
7 event the submission of photographs of the licensed premises shall be
8 dispensed with, provided the applicant for such renewal shall file a
9 statement with the office to the effect that there has been no alter-
10 ation of such premises since the original license was issued. The office
11 may make such rules as it deems necessary, not inconsistent with this
12 chapter, regarding applications for renewals of licenses and permits and
13 the time for making the same.
14 2. Each applicant must submit to the office documentation of the
15 racial, ethnic, and gender diversity of the applicant's employees and
16 owners prior to a license being renewed. In addition, the office may
17 create a social responsibility framework agreement and make the adher-
18 ence to such agreement a conditional requirement of license renewal.
19 3. The office shall provide an application for renewal of a license
20 issued under this article not less than ninety days prior to the expira-
21 tion of the current license.
22 4. The office may only issue a renewal license upon receipt of the
23 prescribed renewal application and renewal fee from a licensee if, in
24 addition to the criteria in this section, the licensee’s license is not
25 under suspension and has not been revoked.
26 § 67. Amendments; changes in ownership and organizational structure.
27 1. Licenses issued pursuant to this article shall specify:
28 (a) the name and address of the licensee;
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1 (b) the activities permitted by the license;
2 (c) the land, buildings and facilities that may be used for the
3 licensed activities of the licensee;
4 (d) a unique license number issued by the office to the licensee; and
5 (e) such other information as the executive director shall deem neces-
6 sary to assure compliance with this chapter.
7 2. Upon application of a licensee to the office, a license may be
8 amended to allow the licensee to relocate within the state, to add or
9 delete licensed activities or facilities, or to amend the ownership or
10 organizational structure of the entity that is the licensee. The fee for
11 such amendment shall be two hundred fifty dollars.
12 3. A license shall become void by a change in ownership, substantial
13 corporate change or location without prior written approval of the exec-
14 utive director. The executive director may promulgate regulations allow-
ing for certain types of changes in ownership without the need for prior written approval.

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

(a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; or

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

§ 68. Adult-use cultivator license.

1. An adult-use cultivator's license shall authorize the acquisition, possession, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed processors in this state. The executive director may establish regulations allowing licensed adult-use cultivators to perform certain types of minimal processing without the need for an adult-use processor license.

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

3. A person holding an adult-use cultivator's license may apply for, and obtain, one processor's license and one distributor's license.

4. A person holding an adult-use cultivator's license may not also hold a retail dispensary license pursuant to this article and no adult-
15 use cannabis cultivator shall have a direct or indirect interest,
16 including by stock ownership, interlocking directors, mortgage or lien,
17 personal or real property, or any other means, in any premises licensed
18 as an adult-use cannabis retail dispensary or in any business licensed
19 as an adult-use cannabis retail dispensary pursuant to this article.
20 5. A person holding an adult-use cultivator's license may not hold a
21 license to distribute cannabis under this article unless the licensed
22 cultivator is also licensed as a processor under this article.
23 6. No person may have a direct or indirect financial or controlling
24 interest in more than one adult-use cultivator license issued pursuant
25 to this chapter.
26 7. The executive director shall have the authority to issue microbusi-
27 ness cultivator licenses, allowing microbusiness licensees to cultivate,
28 process, and distribute adult-use cannabis direct to licensed cannabis
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1 retailers, under a single license. The executive director shall estab-
2 lish through regulation a production limit of total cannabis cultivated,
3 processed and/or distributed annually for microbusiness cultivator
4 licenses.
5 § 69. Adult-use processor license. 1. A processor's license shall
6 authorize the acquisition, possession, processing and sale of cannabis
7 from the licensed premises of the adult-use cultivator by such licensee
8 to duly licensed distributors.
9 2. For purposes of this section, processing shall include, but not be
10 limited to, blending, extracting, infusing, packaging, labeling, brand-
11 ing and otherwise making or preparing cannabis products. Processing
12 shall not include the cultivation of cannabis.
13 3. No processor shall be engaged in any other business on the premises
14 to be licensed; except that nothing contained in this chapter shall
15 prevent a cannabis cultivator, cannabis processor, and cannabis distrib-
16 utor from operating on the same premises and from a person holding all
17 three licenses.
18 4. No cannabis processor licensee may hold more than three cannabis
19 processor licenses.
20 5. No adult-use cannabis processor shall have a direct or indirect
21 interest, including by stock ownership, interlocking directors, mortgage
22 or lien, personal or real property, or any other means, in any premises
23 licensed as an adult-use cannabis retail dispensary or in any business
24 licensed as an adult-use cannabis retail dispensary pursuant to this
25 article.
26 § 70. Adult-use cooperative license. 1. A cooperative license shall
27 authorize the acquisition, possession, cultivation, processing and sale
28 from the licensed premises of the adult-use cooperative by such licensee
29 to duly licensed distributors and/or retail dispensaries; but not
30 directly to cannabis consumers.
31 2. To be licensed as an adult-use cooperative, the cooperative must:
32 (i) be comprised of residents of the state of New York as a limited
33 liability company or limited liability partnership under the laws of the
34 state, or an appropriate business structure as determined by the execu-
35 tive director;
36 (ii) at least one member of the cooperative must have filed a Federal
37 Schedule F (Form 1040) for three of the past five years; and
38 (iii) the cooperative must operate according to the seven cooperative
39 principles published by the International Cooperative Alliance in nine-
40 teen hundred ninety-five.
3. No person shall be a member of more than one adult-use cooperative licensed pursuant to this section.

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

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

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

1 § 71. Adult-use distributor license. 1. A distributor's license shall authorize the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, microbusiness cultivator, or registered organization authorized to sell adult-use cannabis, to duly licensed retail dispensaries.

2. No distributor shall have a direct or indirect economic interest in any adult-use retail dispensary licensed pursuant to this article, or in any registered organization registered pursuant to article three of this chapter. This restriction shall not prohibit a registered organization authorized pursuant to section forty of this chapter, from being granted licensure by the office to distribute adult-use cannabis products cultivated and processed by the registered organization to the registered
13 organization's own licensed adult-use retail dispensaries.
14 3. Nothing in subdivision two of this section shall prevent a distrib-
15 utor from charging an appropriate fee for the distribution of cannabis,
16 including based on the volume of cannabis distributed.
17 § 72. Adult-use retail dispensary license. 1. A retail dispensary
18 license shall authorize the acquisition, possession and sale of cannabis
19 from the licensed premises of the retail dispensary by such licensee to
20 cannabis consumers.
21 2. No person may have a direct or indirect financial or controlling
22 interest in more than three retail dispensary licenses issued pursuant
23 to this chapter. This restriction shall not prohibit a registered organ-
24 ization, authorized pursuant to section forty of this chapter, from
25 being granted licensure by the office to sell adult-use cannabis at
26 locations previously registered by the department of health and in oper-
27 ation as of April first, two thousand nineteen; subject to any condi-
28 tions, limitations or restrictions established by the office.
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1 3. No person holding a retail dispensary license may also hold an
2 adult-use cultivation, processor, microbusiness cultivator, cooperative
3 or distributor license pursuant to this article.
4 4. No retail license shall be granted for any premises, unless the
5 applicant shall be the owner thereof, or shall be in possession of said
6 premises under a lease, management agreement or other agreement giving
7 the applicant control over the premises, in writing, for a term not less
8 than the license period.
9 5. No premises shall be licensed to sell cannabis products, unless
10 said premises shall be located in a store, the principal entrance to
11 which shall be from the street level and located on a public thorough-
12 fare in premises which may be occupied, operated or conducted for busi-
13 ness, trade or industry or on an arcade or sub-surface thoroughfare
14 leading to a railroad terminal.
15 6. No cannabis retail license shall be granted for any premises where
16 a licensee would not be allowed to sell at retail for consumption of
17 alcohol off the premises based on its proximity to a building occupied
18 exclusively as a school, church, synagogue or other place of worship
19 pursuant to the provisions of section one hundred five of the alcohol
20 beverage control law.
21 § 73. Notification to municipalities of adult-use retail dispensary.
22 1. Not less than thirty days nor more than two hundred seventy days
23 before filing an application for licensure as an adult-use cannabis
24 retail dispensary, an applicant shall notify the municipality in which
25 the premises is located of such applicant's intent to file such an
26 application.
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1 2. Such notification shall be made to the clerk of the village, town
2 or city, as the case may be, wherein the premises is located. For
3 purposes of this section:
4 (a) notification need only be given to the clerk of a village when the
5 premises is located within the boundaries of the village, town or city;
6 and
7 (b) in the city of New York, the community board established pursuant
8 to section twenty-eight hundred of the New York city charter with juris-
9 diction over the area in which the premises is located shall be consid-
10 ered the appropriate public body to which notification shall be given.
11 3. Such notification shall be made in such form as shall be prescribed
12 by the rules of the office.
A municipality may express an opinion for or against the granting of such application. Any such opinion shall be deemed part of the record upon which the office makes its determination to grant or deny the application.

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

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

(a) the trade name or "doing business as" name, if any, of the establishment;
(b) the full name of the applicant;
(c) the street address of the establishment, including the floor location or room number, if applicable;
(d) the mailing address of the establishment, if different than the street address;
(e) the name, address and telephone number of the attorney or representative of the applicant, if any;
(f) a statement indicating whether the application is for:
   (i) a new establishment;
   (ii) a transfer of an existing licensed business;
   (iii) a renewal of an existing license; or
   (iv) an alteration of an existing licensed premises;
(g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's regis-
12 ration or license number;
13 (h) in the case of a renewal or alteration application, the registra-
14 tion or license number of the applicant; and
15 (i) the type of license.
16 § 74. On-site consumption license; provisions governing on-site
17 consumption licenses. 1. No licensed adult-use cannabis retail dispen-
18 sary shall be granted a cannabis on-site consumption license for any
19 premises, unless the applicant shall be the owner thereof, or shall be
20 in possession of said premises under a lease, in writing, for a term not
21 less than the license period except, however, that such license may
22 thereafter be renewed without the requirement of a lease as provided in
23 this section. This subdivision shall not apply to premises leased from
24 government agencies, as defined under subdivision twenty of section
25 three of this chapter; provided, however, that the appropriate adminis-
26 trator of such government agency provides some form of written documen-
27 tation regarding the terms of occupancy under which the applicant is
28 leasing said premises from the government agency for presentation to the
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1 office at the time of the license application. Such documentation shall
2 include the terms of occupancy between the applicant and the government
3 agency, including, but not limited to, any short-term leasing agreements
4 or written occupancy agreements.
5 2. No adult-use cannabis retail dispensary shall be granted a cannabis
6 on-site consumption license for any premises where a license would not
7 be allowed to sell at retail for consumption of alcohol on the premises
8 based on its proximity to a building occupied exclusively as a school,
9 church, synagogue or other place of worship pursuant to the provisions
10 of section one hundred five of the alcoholic beverage control law.
3. The office may consider any or all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of a license for an on-site cannabis consumption at a particular location:

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

(b) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;

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

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

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

(f) the history of violations under the alcoholic beverage control law or this chapter at the location, as well as any pattern of violations under the alcoholic beverage control law or this chapter, and reported criminal activity at the proposed premises; and

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

4. If the office shall disapprove an application for an on-site consumption license, it shall state and file in its offices the reasons therefor and shall notify the applicant thereof. Such applicant may thereupon apply to the office for a review of such action in a manner to be prescribed by the rules of the office.
11 5. No adult-use cannabis on-site consumption licensee shall keep upon
12 the licensed premises any adult-use cannabis products except those
13 purchased from a licensed distributor, microbusiness cultivator or
14 registered organization authorized to sell adult-use cannabis, and only
15 in containers approved by the office. Such containers shall have affixed
16 thereto such labels as may be required by the rules of the office. No
17 cannabis retail licensee for on-site consumption shall reuse, refill,
18 tamper with, adulterate, dilute or fortify the contents of any container
19 of cannabis products as received from the manufacturer or distributor.
20 6. No cannabis on-site consumption licensee shall sell, deliver or
21 give away, or cause or permit or procure to be sold, delivered or given
22 away any cannabis for consumption on the premises where sold in a
23 container or package containing more than one gram of cannabis.
24 7. Except where a permit to do so is obtained pursuant to section
25 405.10 of the penal law, no cannabis on-site consumption licensee shall
26 suffer, permit, or promote an event on its premises wherein any person
27 shall use, explode, or cause to explode, any fireworks or other pyro-
28 technics in a building as defined in paragraph e of subdivision one of
29 section 405.10 of the penal law, that is covered by such license or
30 possess such fireworks or pyrotechnics for such purpose. In addition to
31 any other penalty provided by law, a violation of this subdivision shall
32 constitute an adequate ground for instituting a proceeding to suspend,
33 cancel, or revoke the license of the violator in accordance with the
34 applicable procedures specified in this chapter; provided however, if
35 more than one licensee is participating in a single event, upon approval
36 by the office, only one licensee must obtain such permit.
37 8. No premises licensed to sell adult-use cannabis for on-site
consumption under this chapter shall be permitted to have any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless ingress and egress is restricted by an employee, agent of the licensee, or other method approved by the office of controlling access to the facility.

Each cannabis on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of cannabis products, in an applicable metric measurement, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis products made by such licensee. The office is hereby authorized to promulgate rules and regulations permitting an on-site licensee operating two or more premises separately licensed to sell cannabis products for on-site consumption to inaugurate or retain in this state methods or practices of centralized accounting, bookkeeping, control records, reporting, billing, invoicing or payment respecting purchases, sales or deliveries of cannabis products, or methods and practices of centralized receipt or storage of cannabis products within this state without segregation or earmarking for any such separately licensed premises, wherever such methods and practices assure the availability, at such licensee's central or main office in this state, of data reasonably needed for the enforcement of this chapter. Such records shall be available for inspection by any authorized representative of the office.
10. All retail licensed premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the office, during the hours when the said premises are open for the transaction of business.

11. A cannabis on-site consumption licensee shall not provide cannabis products to any person under the age of twenty-one or to anyone visibly intoxicated.

§ 75. Record keeping and tracking. 1. The executive director shall, by regulation, require each licensee pursuant to this article to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, or distributing by the licensee, subject to regulations of the executive director.

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

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

Licensed producers shall deliver to the licensed distributor a true duplicate invoice stating the name and address of the purchaser, the quantity purchased, description and the price of the product, and a true, accurate and complete statement of the terms and conditions on which such sale is made.

4. Such books, records and invoices shall be kept for a period of five years.
8 years and shall be available for inspection by any authorized representi-

gative of the office.

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

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

§ 77. Adult-use cultivators, processors or distributors not to be
interested in retail dispensaries. 1. It shall be unlawful for a culti-
vator, processor, cooperative or distributor licensed under this article
7 to:
8 (a) be interested directly or indirectly in any premises where any
9 cannabis product is sold at retail; or in any business devoted wholly or
10 partially to the sale of any cannabis product at retail by stock owner-
11 ship, interlocking directors, mortgage or lien or any personal or real
12 property, or by any other means.
13 (b) make, or cause to be made, any loan to any person engaged in the
14 manufacture or sale of any cannabis product at wholesale or retail.
15 (c) make any gift or render any service of any kind whatsoever,
16 directly or indirectly, to any person licensed under this chapter which
17 in the judgment of the office may tend to influence such licensee to
18 purchase the product of such cultivator or processor or distributor.
19 (d) enter into any contract with any retail licensee whereby such
20 licensee agrees to confine his sales to cannabis products manufactured
21 or sold by one or more such cultivator or processors or distributors.
22 Any such contract shall be void and subject the licenses of all parties
23 concerned to revocation for cause.
24 2. The provisions of this section shall not prohibit a registered
25 organization authorized pursuant to section forty of this chapter, from
26 cultivating, processing, distributing and selling adult-use cannabis
27 under this article, at facilities wholly owned and operated by such
28 registered organization, subject to any conditions, limitations or
29 restrictions established by the office.
30 3. The office shall have the power to create rules and regulations in
31 regard to this section.
32 § 78. Packaging and labeling of adult-use cannabis products. 1. The
33 office is hereby authorized to promulgate rules and regulations govern-
ing the packaging and labeling of cannabis products, sold or possessed
for sale in New York state.

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

11 (a) packaging meets requirements similar to the federal "poison
13 (b) all cannabis-infused products shall have a separate packaging for
each serving;
15 (c) prior to delivery or sale at a retailer, cannabis and cannabis
products shall be labeled and placed in a resealable, child-resistant
package; and
18 (d) packages and labels shall not be made to be attractive to minors.

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

4. Such rules and regulations shall establish methods and procedures
for determining serving sizes for cannabis-infused products, active
cannabis concentration per serving size, and number of servings per
container. Such regulations shall also require a nutritional fact panel
that incorporates data regarding serving sizes and potency thereof.

5. The packaging, sale, or possession by any licensee of any cannabis
product not labeled or offered in conformity with rules and regulations
promulgated in accordance with this section shall be grounds for the
imposition of a fine, and/or the suspension, revocation or cancellation
of a license.

6 § 79. Laboratory testing. 1. Every processor of adult-use cannabis
7 shall contract with an independent laboratory permitted pursuant to
8 section one hundred twenty-nine of this chapter, to test the cannabis
9 products it produces pursuant to rules and regulations prescribed by the
10 office. The executive director may assign an approved testing laborato-
11 ry, which the processor of adult-use cannabis must use.
12 2. Adult-use cannabis processors shall make laboratory test reports
13 available to licensed distributors and retail dispensaries for all
14 cannabis products manufactured by the processor.
15 3. Licensed retail dispensaries shall maintain accurate documentation
16 of laboratory test reports for each cannabis product offered for sale to
17 cannabis consumers. Such documentation shall be made publicly available
18 by the licensed retail dispensary.
19 4. Onsite laboratory testing by licensees is permissible; however,
20 such testing shall not be certified by the office and does not exempt
21 the licensee from the requirements of quality assurance testing at a
22 testing laboratory pursuant to this section.
23 5. An owner of a cannabis laboratory testing permit shall not hold a
24 license in any other category within this article and shall not own or
25 have ownership interest in a registered organization registered pursuant
26 to article three of this chapter.
27 6. The office shall have the authority to require any licensee under
2 this article to submit cannabis or cannabis products to one or more
3 independent laboratories for testing.
4 § 80. Provisions governing the cultivation and processing of adult-use
5 cannabis. 1. Cultivation of cannabis must not be visible from a public
6 place by normal unaided vision.
7 2. No cultivator or processor of adult-use cannabis shall sell, or
8 agree to sell or deliver in the state any cannabis products, as the case
9 may be, except in sealed containers containing quantities in accordance
10 with size standards pursuant to rules adopted by the office. Such
11 containers shall have affixed thereto such labels as may be required by
12 the rules of the office.
13 3. No cultivator or processor of adult-use cannabis shall furnish or
14 cause to be furnished to any licensee, any exterior or interior sign,
15 printed, painted, electric or otherwise, except as authorized by the
16 office. The office may make such rules as it deems necessary to carry
17 out the purpose and intent of this subdivision.
18 4. Cultivators of adult-use cannabis shall only use pesticides that
19 are registered by the department of environmental conservation or that
20 specifically meet the United States environmental protection agency
21 registration exemption criteria for minimum risk pesticides, and only in
22 compliance with regulations, standards and guidelines issued by the
23 department of environmental conservation.
24 5. No cultivator or processor of adult-use cannabis shall transport
25 cannabis products in any vehicle owned and operated or hired and oper-
26 ated by such cultivator or processor, unless there shall be attached to
27 or inscribed upon both sides of such vehicle a sign, showing the name
28 and address of the licensee, together with the following inscription:
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1 "New York State Cannabis Cultivator (or Processor) License No. _____" in
2 uniform letters not less than three and one-half inches in height. In
3 lieu of such sign a cultivator or processor may have in the cab of such
4 vehicle a photostatic copy of its current license issued by the office,
5 and such copy duly authenticated by the office.
6 6. No cultivator or processor of adult-use cannabis shall deliver any
7 cannabis products, except in vehicles owned and operated by such culti-
8 vator, processor, or hired and operated by such cultivator or processor
9 from a trucking or transportation company registered with the office,
10 and shall only make deliveries at the licensed premises of the purchas-
11 er.
12 7. No cultivator or processor of adult-use cannabis, including an
13 adult-use cannabis cooperative or microbusiness cultivator, may offer
14 any incentive, payment or other benefit to a licensed cannabis retail
15 dispensary in return for carrying the cultivator, processor, cooperative
16 or microbusiness cultivator's products, or preferential shelf placement.
17 8. All cannabis products shall be processed in accordance with good
18 manufacturing processes, pursuant to Part 111 of Title 21 of the Code of
19 Federal Regulations, as may be modified by the executive director in
20 regulation.
21 9. No processor of adult-use cannabis shall produce any product which,
22 in the discretion of the office, is designed to appeal to anyone under
23 the age of twenty-one years.
24 10. The use or integration of alcohol or nicotine in cannabis products
25 is strictly prohibited.
27 No distributor shall sell, or agree to sell or deliver any cannabis
28 products, as the case may be, in any container, except in a sealed pack01/
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1 age. Such containers shall have affixed thereto such labels as may be
2 required by the rules of the office.
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 office, 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 together with the names,
12 license numbers and places of business of the persons from whom the same
13 was purchased and the amount involved in such purchases, as well as the
14 amount of cannabis products sold by such distributor together with the
15 names, addresses, and license numbers of such purchasers. Each sale
16 shall be recorded separately on a numbered invoice, which shall have
17 printed thereon the number, the name of the licensee, the address of the
18 licensed premises, and the current license number. Such distributor
19 shall deliver to the purchaser a true duplicate invoice stating the name
20 and address of the purchaser, the quantity of cannabis products,
21 description by brands and the price of such cannabis products, and a
22 true, accurate and complete statement of the terms and conditions on
23 which such sale is made. Such books, records and invoices shall be kept
24 for a period of five years and shall be available for inspection by any
25 authorized representative of the office.
26 4. No distributor shall furnish or cause to be furnished to any licen-
27 see, any exterior or interior sign, printed, painted, electric or other-
28 wise, unless authorized by the office.
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1 5. No distributor shall provide any discount, rebate or customer
2 loyalty program to any licensed retailer, except as otherwise allowed by
3 the office.
4 6. The executive director is authorized to promulgate regulations
5 establishing a maximum margin for which a distributor may mark up a
6 cannabis product for sale to a retail dispensary. Any adult-use cannabis
7 product sold by a distributor for more than the maximum markup allowed
8 in regulation, shall be unlawful.

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

18 § 82. Provisions governing adult-use cannabis retail dispensaries. 1.
19 No cannabis retail licensee shall sell, deliver, or give away or cause
20 or permit or procure to be sold, delivered or given away any cannabis to
21 any person, actually or apparently, under the age of twenty-one years,
22 any visibly intoxicated person, or any habitually intoxicated person
23 known to be such by the person authorized to sell, deliver, or give away
24 any cannabis.

25 2. No cannabis retail licensee shall sell more than one ounce of
26 cannabis per cannabis consumer per day; nor more than five grams of
27 cannabis concentrate per cannabis consumer per day.

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

4 4. No sign of any kind printed, painted or electric, advertising any
5 brand shall be permitted on the exterior or interior of such premises, 
6 except by permission of the office.

7 5. No cannabis retail licensee shall sell or deliver any cannabis 
8 products to any person with knowledge of, or with reasonable cause to 
9 believe, that the person to whom such cannabis products are being sold, 
10 has acquired the same for the purpose of peddling them from place to 
11 place, or of selling or giving them away in violation of the provisions 
12 of this chapter or in violation of the rules and regulations of the 
13 office.

14 6. All premises licensed under this section shall be subject to 
15 inspection by any peace officer described in subdivision four of section 
16 2.10 of the criminal procedure law acting pursuant to his or her special 
17 duties, or police officer or any duly authorized representative of the 
18 office, during the hours when the said premises are open for the trans-
19 action of business.

20 7. No cannabis retail licensee shall be interested, directly or indi-
21 rectly, in any cultivator, processor or distributor licensed pursuant to 
22 this article, by stock ownership, interlocking directors, mortgage or 
23 lien on any personal or real property or by any other means. Any lien, 
24 mortgage or other interest or estate, however, now held by such retailer 
25 on or in the personal or real property of such manufacturer or distribu-
26 tor, which mortgage, lien, interest or estate was acquired on or before 
27 December thirty-first, two thousand eighteen, shall not be included 
28 within the provisions of this subdivision; provided, however, the burden 

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1 of establishing the time of the accrual of the interest comprehended by 
2 this subdivision, shall be upon the person who claims to be entitled to 
3 the protection and exemption afforded hereby.
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. The use of the licensed premises or any part thereof for the sale
16 of lottery tickets, when duly authorized and lawfully conducted thereon,
17 shall not constitute gambling within the meaning of this subdivision.
18 11. If an employee of a cannabis retail licensee suspects that a
19 cannabis consumer may be abusing cannabis, such an employee shall have a
20 duty to encourage such cannabis consumer to seek the help of a regis-
21 tered practitioner and become a certified patient. Cannabis retail
22 licensees shall develop standard operating procedures and written mate-
23 rials for employees to utilize when consulting consumers for purposes of
24 this subdivision.
25 12. The executive director is authorized to promulgate regulations
26 governing licensed adult-use dispensing facilities, including but not
27 limited to, the hours of operation, size and location of the licensed
28 facility, potency and types of products offered and establishing a mini01/
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1 mum margin for which a retail dispensary must markup a cannabis
2 product(s) before selling to a cannabis consumer. Any adult-use cannabis
3 product sold by a retail dispensary for less than the minimum markup allowed in regulation, shall be unlawful.

5 § 83. Adult-use cannabis advertising. 1. The office is hereby authorized to promulgate rules and regulations governing the advertising of licensed adult-use cannabis cultivators, processors, cooperatives, distributors, retailers, and any cannabis related products or services.

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

(a) is false, deceptive, or misleading;
(b) promotes overconsumption;
(c) depicts consumption by children or other minors;
(d) is designed in any way to appeal to children or other minors;
(e) is within two hundred feet of the perimeter of a school grounds, playground, child care center, public park, or library;
(f) is in public transit vehicles and stations;
(g) is in the form of an unsolicited internet pop-up;
(h) is on publicly owned or operated property; or
(i) makes medical claims or promotes adult-use cannabis for a medical or wellness purpose.

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

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

4. The office shall promulgate explicit rules requiring that:

(a) all advertisements and marketing accurately and legibly identify
2 the licensee responsible for its content; and
3 (b) any broadcast, cable, radio, print and digital communications
4 advertisements only be placed where the audience is reasonably expected
5 to be twenty-one years of age or older, as determined by reliable,
6 up-to-date audience composition data.
7 § 84. Minority, women-owned businesses and disadvantaged farmers;
8 incubator program. 1. The office shall implement a social and economic
9 equity plan and actively promote racial, ethnic, and gender diversity
10 when issuing licenses for adult-use cannabis related activities, includ-
11 ing by prioritizing consideration of applications by applicants who
12 qualify as a minority and women-owned business or disadvantaged farmers.
13 Such qualifications shall be determined by the office in regulation.
14 2. The office shall create a social and economic equity plan to
15 promote diversity in ownership and employment in the adult-use cannabis
16 industry and ensure inclusion of:
17 (a) minority-owned businesses;
18 (b) women-owned businesses;
19 (c) minority and women-owned businesses, as defined in subdivision
20 five of this section; and
21 (d) disadvantaged farmers, as defined in subdivision five of this
22 section.
23 3. The social and economic equity plan shall consider additional
24 criteria in its licensing determinations. Under the social and economic
25 equity plan, extra weight shall be given to applications that demon-
26 strate that an applicant:
27 (a) is a member of a community group that has been disproportionately
28 impacted by the enforcement of cannabis prohibition;
1 (b) has an income lower than eighty percent of the median income of
2 the county in which the applicant resides; and
3 (c) was convicted of a cannabis-related offense prior to the effective
4 date of this chapter.
5 4. The office shall also create an incubator program to provide direct
6 support to social and economic equity applicants after they have been
7 granted licenses. The program shall provide direct support in the form
8 of counseling services, education, small business coaching, and compli-
9 ance assistance.
10 5. For the purposes of this section, the following definitions shall
11 apply:
12 (a) "minority-owned business" shall mean a business enterprise,
13 including a sole proprietorship, partnership, limited liability company
14 or corporation that is:
15 (i) at least fifty-one percent owned by one or more minority group
16 members;
17 (ii) an enterprise in which such minority ownership is real, substan-
18 tial and continuing;
19 (iii) an enterprise in which such minority ownership has and exercises
20 the authority to control independently the day-to-day business decisions
21 of the enterprise;
22 (iv) an enterprise authorized to do business in this state and inde-
23 pendently owned and operated; and
24 (v) an enterprise that is a small business.
25 (b) "minority group member" shall mean a United States citizen or
26 permanent resident alien who is and can demonstrate membership in one of
27 the following groups:
1 (i) black persons having origins in any of the black African racial
2 groups;
3 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
4 Central or South American of either Indian or Hispanic origin, regard-
5 less of race;
6 (iii) Native American or Alaskan native persons having origins in any
7 of the original peoples of North America; or
8 (iv) Asian and Pacific Islander persons having origins in any of the
9 far east countries, south east Asia, the Indian subcontinent or the
10 Pacific islands.
11 (c) "women-owned business" shall mean a business enterprise, including
12 a sole proprietorship, partnership, limited liability company or corpo-
13 ration that is:
14 (i) at least fifty-one percent owned by one or more United States
15 citizens or permanent resident aliens who are women;
16 (ii) an enterprise in which the ownership interest of such women is
17 real, substantial and continuing;
18 (iii) an enterprise in which such women ownership has and exercises
19 the authority to control independently the day-to-day business decisions
20 of the enterprise;
21 (iv) an enterprise authorized to do business in this state and inde-
22 pendently owned and operated; and
23 (v) an enterprise that is a small business.
24 (d) a firm owned by a minority group member who is also a woman may be
25 defined as a minority-owned business, a women-owned business, or both.
26 (e) "disadvantaged farmer" shall mean a New York state resident or
27 business enterprise, including a sole proprietorship, partnership,
28 limited liability company or corporation, that has reported at least
1 two-thirds of its federal gross income as income from farming, in at
2 least one of the past five preceding tax years, and who:
3 (i) farms in a county that has greater than ten percent rate of pover-
4 ty according to the latest U.S. Census Bureau's American Communities
5 Survey;
6 (ii) has been disproportionately impacted by low commodity prices or
7 faces the loss of farmland through development or suburban sprawl; and
8 (iii) meets any other qualifications as defined in regulation by the
9 office.
10 6. The office shall actively promote applicants that foster racial,
11 ethnic, and gender diversity in their workforce.
12 7. Licenses issued to minority and women-owned businesses or under the
13 social and economic equity plan shall not be transferable except to
14 qualified minority and women-owned businesses or social and economic
15 equity applicants and only upon prior written approval of the executive
16 director.
17 8. The office shall collect demographic data on owners and employees
18 in the adult-use cannabis industry and shall annually publish such data.
19 § 85. Collective bargaining. 1. The executive director shall require
20 all licensees under this article with more than twenty-five employees,
21 including registered organizations authorized pursuant to section forty
22 of this chapter to cultivate, process, distribute and sell adult-use
23 cannabis products, to enter into a bona-fide collective bargaining
24 agreement with a bona-fide labor organization.
25 2. The maintenance of such a collective bargaining agreement shall be
26 an ongoing material condition of the entity's license.
27 § 86. Regulations. The executive director shall make regulations to
§ 90. Cannabinoid related hemp licensing. 1. Persons growing, processing, extracting, and/or manufacturing hemp cannabis or producing hemp cannabis products distributed, sold or marketed for cannabinoid content...
and used or intended for human or animal consumption or use, shall be required to obtain the following license or licenses from the office, depending upon the operation:

(a) cannabinoid grower license and/or;
(b) cannabinoid extractor license.

Notwithstanding subsection one of this section, those persons growing, processing or manufacturing food or food ingredients from hemp, which food or food ingredients are generally recognized as safe, shall be subject to regulation and/or licensing under the agriculture and markets law.

§ 91. Cannabinoid grower licenses. 1. A cannabinoid grower’s license authorizes the acquisition, possession, cultivation and sale of hemp cannabis grown or used for its cannabinoid content on the licensed premises of the grower.

2. A person holding a cannabinoid grower’s license shall not sell hemp products marketed, distributed or sold for its cannabinoid content and intended for human consumption or use without also being licensed as an extractor pursuant to this article.

3. Persons growing industrial hemp pursuant to article twenty-nine of the agriculture and markets law are not authorized to and shall not sell hemp cannabis for human or animal consumption or use, other than as food or a food ingredient that has been generally recognized as safe in accordance with the U.S. food and drug administration or determined by the state to be safe for human consumption as food or a food ingredient.

4. A person licensed under article twenty-nine of the agriculture and markets law as a hemp grower may apply for a cannabinoid grower's license provided that it can demonstrate to the office that its culti-
Cannabinoid extractor license. 1. A cannabinoid extractor license authorizes the licensee's acquisition, possession, extraction and manufacture of hemp from a licensed cannabinoid grower for the processing of hemp or the production of hemp products marketed, distributed or sold for cannabinoid content and used or intended for human or animal consumption or use.

2. No cannabinoid extractor licensee shall engage in any other business on the licensed premises; except that nothing contained in this chapter shall prevent a cannabinoid extractor licensee from also being licensed as a cannabinoid grower on the same premises.

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

Cannabinoid license applications. 1. Persons shall apply for a cannabinoid grower license and/or a cannabinoid extractor license by submitting an application upon a form supplied by the office, providing all the requested information, verified by the applicant or an authorized representative of the applicant.

2. A separate license shall be required for each facility at which growing or extracting is conducted.

3. Each application shall remit with its application the fee for each requested license.

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

27 2. The executive director is authorized to adopt regulations, includ-
28 ing by emergency rule, establishing information which must be included

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1 on an application for licensure under this article. Such information may
2 include, but is not limited to: information about the applicant’s iden-
3 tity, including racial and ethnic diversity; ownership and investment
4 information, including the corporate structure; evidence of good moral
5 character, including the submission of fingerprints by the applicant to
6 the division of criminal justice services; information about the prem-
7 ises to be licensed; financial statements; and any other information
8 prescribed by in regulation.

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

14 4. All license or permit applications shall be accompanied by a check,
15 draft or other forms of payment as the office may require or authorize
16 in the amount required by this article for such license or permit.
17 5. If there be any change, after the filing of the application or the
18 granting of a license, in any of the facts required to be set forth in
19 such application, a supplemental statement giving notice of such change,
20 cost and source of money involved in the change, duly verified, shall be
21 filed with the office within ten days after such change. Failure to do
22 so shall, if willful and deliberate, be cause for revocation of the
23 license.

24 6. In giving any notice, or taking any action in reference to a licen-
25 see of a licensed premises, the office may rely upon the information
26 furnished in such application and in any supplemental statement
27 connected therewith, and such information may be presumed to be correct,
28 and shall be binding upon a registered organization, licensee or
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1 licensed premises as if correct. All information required to be
2 furnished in such application or supplemental statements shall be deemed
3 material in any prosecution for perjury, any proceeding to revoke,
4 cancel or suspend any license, and in the office's determination to
5 approve or deny the license.
6 7. The office may, in its discretion, waive the submission of any
7 category of information described in this section for any category of
8 license or permit, provided that it shall not be permitted to waive the
9 requirement for submission of any such category of information solely
10 for an individual applicant or applicants.
11 § 95. Fees. The office shall have the authority to charge licensees a
12 biennial license fee. Such fee may be based on the amount of hemp canna-
13 bis to be grown, processed or extracted by the licensee, the gross annu-
14 al receipts of the licensee for the previous license period, or any
15 other factors deemed appropriate by the office.
16 § 96. Selection criteria. 1. An applicant shall furnish evidence:
17 (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol
18 concentration that does not exceed a percentage of delta-9-tetrahydro-
19 cannabinol cannabis set by the executive director on a dry weight basis
20 of any part of the plant of the genus cannabis, or per volume or weight
21 of cannabis product, or the combined percent of delta-9-tetrahydrocanna-
22 binol and tetrahydrocannabinolic acid in any part of the plant of the
23 genus cannabis regardless of moisture content, for all hemp cannabis and
24 hemp derived products cultivated, processed or extracted by the applicant;
26 (b) its ability to comply with all applicable state laws and regulations, including, without limitation, the provisions of article fourteen of the agriculture and markets law;
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1 (c) that the applicant is ready, willing and able to properly carry on the activities for which a license is sought; and
3 (d) that the applicant is in possession of or has the right to use land, buildings and equipment sufficient to properly carry on the activity described in the application.
6 2. The office, in considering whether to grant the license application, shall consider whether:
8 (a) it is in the public interest that such license be granted, taking into consideration whether the number of licenses will be adequate or excessive to reasonably serve demand;
11 (b) the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter; and
14 (c) the applicant satisfies any other conditions as determined by the office.
16 3. If the executive director is not satisfied that the applicant should be issued a license, the executive director shall notify the applicant in writing of the specific reason or reasons for denial.
19 4. The executive director shall have authority and sole discretion to determine the number of licenses issued pursuant to this article.
21 § 97. Limitations of licensure; duration. 1. No license pursuant to this article may be issued to a person under the age of twenty-one
23 years.

24 2. The office shall have the authority to limit, by canopy, plant
25 count or other means, the amount of hemp cannabis allowed to be culti-
26 vated, processed, extracted or sold by a licensee.

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

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

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

14 3. The office may make such rules as may be necessary, not inconsist-
15 ent with this chapter, regarding applications for renewals of licenses
16 and permits and the time for making the same.

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

20 5. The office may only issue a renewal license upon receipt of the
21 prescribed renewal application and renewal fee from a licensee if, in
22 addition to the criteria in section ninety-four of this article, the
23 license's license is not under suspension and has not been revoked.
6. The office shall have the authority to charge applicants for licensure under this article a non-refundable application fee. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the office to achieve the policy and purpose of this chapter.

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

1. the name and address of the licensee;
2. the activities permitted by the license;
3. the land, buildings and facilities that may be used for the licensed activities of the licensee;
4. a unique license number issued by the office to the licensee; and
5. such other information as the executive director shall deem necessary to assure compliance with this chapter.

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

2. In the event that any of the information provided by the applicant changes either while the application is pending or after the license is granted, within ten days of any such change, the applicant or licensee shall submit to the office a verified statement setting forth the change in circumstances of facts set forth in the application. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.
A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the executive director. The executive director may promulgate regulations allowing for certain types of changes in ownership without the need for prior written approval.

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

(a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; and

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

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

2. Every licensee shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the licensee and sale of its products, which shall include all information required by rules promulgated by the office.
§ 102. Inspections and ongoing requirements. All licensees shall be subject to reasonable inspection by the office, and a person who holds a license must make himself or herself, or an agent thereof, available and present for any inspection required by the office. The office shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.

§ 103. Packaging and labeling of hemp cannabis. 1. The office is hereby authorized to promulgate rules and regulations governing the packaging and labeling of hemp cannabis products, sold or possessed for sale in New York state.

2. Such regulations shall include, but not be limited to, requiring labels warning consumers of any potential impact on human health resulting from the consumption of hemp cannabis products that shall be affixed to those products when sold, if such labels are deemed warranted by the office.

3. Such rules and regulations shall establish methods and procedures for determining, among other things, serving sizes for hemp cannabis products, active cannabinoid concentration per serving size, and number of servings per container. Such regulations shall also require a nutritional fact panel that incorporates data regarding serving sizes and
22 potency thereof.
23 4. The packaging, sale, or possession by any licensee of any hemp
24 product intended for human or animal consumption or use not labeled or
25 offered in conformity with rules and regulations promulgated in accord-
26 ance with this section shall be grounds for the imposition of a fine,
27 and/or the suspension, revocation or cancellation of a license.
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1 § 104. Provisions governing the growing and extracting of hemp canna-
2 bis. 1. No licensed cannabinoid grower or extractor shall sell, or
3 agree to sell or deliver in the state any hemp cannabis products, as the
4 case may be, except in sealed containers containing quantities in
5 accordance with size standards pursuant to rules adopted by the office.
6 Such containers shall have affixed thereto such labels as may be
7 required by the rules of the office.
8 2. Licensed cannabinoid growers shall only use pesticides that are
9 registered by the New York state department of environmental conserva-
10 tion or that specifically meet the United States Environmental
11 Protection Agency registration exemption criteria for minimum risk
12 pesticides, and only in compliance with regulations, standards and
13 guidelines issued by the department of environmental conservation.
14 3. All hemp cannabis products shall be extracted and manufactured in
15 accordance with good manufacturing processes, pursuant to Part 111 of
16 Title 21 of the Code of Federal Regulations as may be modified by the
17 executive director in regulation.
18 4. The use or integration of alcohol or nicotine in hemp cannabis
19 products is strictly prohibited.
20 § 105. Laboratory testing. 1. Every cannabinoid extractor shall
21 contract with an independent laboratory to test the cannabis products
22 produced by the licensed extractor. The executive director, in consulta-
23 tion with the commissioner of health, shall approve the laboratory and
24 require that the laboratory report testing results in a manner deter-
25 mined by the executive director. The executive director is authorized to
26 issue regulations requiring the laboratory to perform certain tests and
27 services.
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1 2. Cannabinoid extractors shall make laboratory test reports available
2 to persons holding a cannabinoid permit pursuant to article six of this
3 chapter for all cannabis products manufactured by the licensee.
4 3. On-site laboratory testing by licensees is permissible; however,
5 such testing shall not be certified by the office and does not exempt
6 the licensee from the requirements of quality assurance testing at a
7 testing laboratory pursuant to this section.
8 § 106. Advertising. The office shall promulgate rules and regulations
9 governing the advertising of hemp cannabis and any other related
10 products or services as determined by the executive director.
11 § 107. Research. 1. The office shall promote research and development
12 through public-private partnerships to bring new hemp cannabis and
13 industrial hemp derived products to market within the state.
14 2. The executive director may develop and carry out research programs
15 relating to industrial hemp and hemp cannabis.
16 § 108. Regulations. The executive director shall make regulations to
17 implement this article.
18 ARTICLE 6
19 GENERAL PROVISIONS
20 Section 125. General prohibitions and restrictions.
21 126. License to be confined to premises licensed; premises for
which no license shall be granted; transporting cannabis.

Protections for the use of cannabis; unlawful discrimi-

nations prohibited.

Registrations and licenses.

Laboratory testing permit.

Special use permits.

Professional and medical record keeping.

County opt-out; municipal control and preemption.

Executive director to be necessary party to certain
proceedings.

Penalties for violation of this chapter.

Revocation of registrations, licenses and permits for
cause; procedure for revocation or cancellation.

Lawful actions pursuant to this chapter.

Review by courts.

Illicit cannabis.

Injunction for unlawful manufacture, sale or consumption of
cannabis.

Persons forbidden to traffic cannabis products; certain
officials not to be interested in manufacture or sale of
cannabis products.

Access to criminal history information through the division
of criminal justice services.

§ 125. General prohibitions and restrictions. 1. No person shall
cultivate, process, or distribute for sale or sell at wholesale or
distribute for sale at wholesale or
retail any cannabis, cannabis product, medical cannabis or hemp cannabis
product within the state without obtaining the appropriate registration,
23 license, or permit therefor required by this chapter.

24 2. No registered organization, licensee, or permittee shall sell, or
25 agree to sell or deliver in this state any cannabis or hemp cannabis for
26 the purposes of resale to any person who is not duly registered,
27 licensed or permitted pursuant to this chapter to sell such product, at
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1 wholesale or retail, as the case may be, at the time of such agreement
2 and sale.

3 3. No registered organization, licensee, or permittee shall employ, or
4 permit to be employed, or shall allow to work, on any premises regis-
5 tered or licensed for retail sale hereunder, any person under the age of
6 eighteen years in any capacity where the duties of such person require
7 or permit such person to sell, dispense or handle cannabis or hemp
8 cannabis.

9 4. No registered organization, licensee, or permittee shall sell,
10 deliver or give away, or cause, permit or procure to be sold, delivered
11 or given away any cannabis, cannabis product, medical cannabis or hemp
12 cannabis on credit; except that a registered organization, licensee or
13 permittee may accept third party credit cards for the sale of any canna-
14 bis, cannabis product, medical cannabis or hemp cannabis for which it is
15 registered, licensed or permitted to dispense or sell to patients or
16 cannabis consumers. This includes, but is not limited to, any consign-
17 ment sale of any kind.

18 5. No registered organization, licensee, or permittee shall cease to
19 be operated as a bona fide or legitimate premises within the contem-
20 plation of the registration, license, or permit issued for such prem-
21 ises, as determined within the judgment of the office.

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

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

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

23 9. It shall be unlawful for any person, partnership or corporation
24 operating a place for profit or pecuniary gain, with a capacity for the
25 assemblage of twenty or more persons to permit a person or persons to
26 come to the place of assembly for the purpose of cultivating, process-
27 ing, distributing, or retail distribution or sale of cannabis on said
28 premises. This includes, but is not limited, to, cannabis that is either
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1 provided by the operator of the place of assembly, his agents, servants
2 or employees, or cannabis that is brought onto said premises by the
3 person or persons assembling at such place, unless an appropriate regis-
4 tration, license, or permit has first been obtained from the office of
5 cannabis management by the operator of said place of assembly.
6 10. As it is a privilege under the law to be registered, licensed, or
7 permitted to cultivate, process, distribute, traffic, or sell cannabis,
8 the office may impose any such further restrictions upon any registrant,
9 licensee, or permittee in particular instances as it deems necessary to
10 further state policy and best serve the public interest. A violation or
11 failure of any person registered, licensed, or permitted to comply with
12 any condition, stipulation, or agreement, upon which any registration,
13 license, or permit was issued or renewed by the office shall subject the
14 registrant, licensee, or permittee to suspension, cancellation, revoca-
15 tion, and/or civil penalties as determined by the office.
16 11. No adult-use cannabis or medical cannabis may be imported to, or
17 exported out of, New York state by a registered organization, licensee
18 or person holding a license and/or permit pursuant to this chapter,
19 until such time as it may become legal to do so under federal law.
20 Should it become legal to do so under federal law, the office is granted
21 the power to promulgate such rules and regulations as it deems necessary
22 to protect the public and the policy of the state.
23 12. No registered organization, licensee or any of its agents, serv-
24 ants or employees shall peddle any cannabis product, medical cannabis or
25 hemp cannabis from house to house by means of a truck or otherwise,
26 where the sale is consummated and delivery made concurrently at the
27 residence or place of business of a cannabis consumer. This subdivision
28 shall not prohibit the delivery by a registered organization to certi01/
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1 fied patients or their designated caregivers, pursuant to article three
2 of this chapter.
3 13. No licensee shall employ any canvasser or solicitor for the
4 purpose of receiving an order from a certified patient, designated care-
5 giver or cannabis consumer for any cannabis product, medical cannabis or
6 hemp cannabis at the residence or place of business of such patient,
7 caregiver or consumer, nor shall any licensee receive or accept any
8 order, for the sale of any cannabis product, medical cannabis or hemp
9 cannabis which shall be solicited at the residence or place of business
10 of a patient, caregiver or consumer. This subdivision shall not prohibit
11 the solicitation by a distributor of an order from any licensee at the
12 licensed premises of such licensee.
13 14. No premises registered, licensed, or permitted by the office
14 shall:
15 (a) permit or allow any gambling on the premises;
16 (b) permit or allow the premises to become disorderly;
17 (c) permit or allow the use, by any person, of any fireworks or other
18 pyrotechnics on the premises; or
19 (d) permit or allow to appear as an entertainer, on any part of the
20 premises registered, licensed, or permitted, any person under the age of eighteen years.

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

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

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

4. For purposes of this section, "arm’s length transaction" shall mean
a sale of a fee of all undivided interests in real property, lease,
management agreement, or other agreement giving the applicant control
over the cannabis at the premises, or any part thereof, in the open
market, between an informed and willing buyer and seller where neither
is under any compulsion to participate in the transaction, unaffected by
any unusual conditions indicating a reasonable possibility that the sale
was made for the purpose of permitting the original licensee to avoid
the effect of the revocation. The following sales shall be presumed not
to be arm’s length transactions unless adequate documentation is
provided demonstrating that the sale, lease, management agreement, or
other agreement giving the applicant control over the cannabis at the
premises, was not conducted, in whole or in part, for the purpose of
permitting the original licensee to avoid the effect of the revocation:
(a) a sale between relatives;
(b) a sale between related companies or partners in a business; or
(c) a sale, lease, management agreement, or other agreement giving the
applicant control over the cannabis at the premises, affected by other
facts or circumstances that would indicate that the sale, lease, manage-
ment agreement, or other agreement giving the applicant control over the
cannabis at the premises, is entered into for the primary purpose of
permitting the original licensee to avoid the effect of the revocation.

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

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

§ 127. Protections for the use of cannabis; unlawful discriminations prohibited. 1. No person, registered organization, licensee or permittee shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business or occupational or professional licensing board or office, solely for conduct permitted under this chapter. For the avoidance of doubt, the appellate division of the supreme court of the state of New York, and any disciplinary or character and fitness committees established by them are occupational and professional licensing boards within the meaning of this section.

State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the federal controlled substances act, 21 U.S.C. et seq., solely for actions consistent with this chapter, except as pursuant to a valid court order.

2. No school or landlord may refuse to enroll or lease to and may not
17 otherwise penalize a person solely for conduct allowed under this chap-
18 ter, except as exempted:
19 (a) if failing to do so would cause the school or landlord to lose a
20 monetary or licensing related benefit under federal law or regulations;
21 (b) if the institution has adopted a code of conduct prohibiting
22 cannabis use on the basis of religious belief; or
23 (c) if a property is registered with the New York smoke-free housing
24 registry, it is not required to permit the smoking of cannabis products
25 on its premises.
26 3. For the purposes of medical care, including organ transplants, a
27 certified patient's authorized use of medical cannabis must be consid-
28 ered the equivalent of the use of any other medication under the direc01/
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1 tion of a practitioner and does not constitute the use of an illicit
2 substance or otherwise disqualify a registered qualifying patient from
3 medical care.
4 4. Unless an employer establishes that the lawful use of cannabis has
5 impaired the employee's ability to perform the employee's job responsi-
6 bilities, it shall be unlawful to take any adverse employment action
7 against an employee based on conduct allowed under this chapter.
8 5. For the purposes of this section, an employer may consider an
9 employee's ability to perform the employee's job responsibilities to be
10 impaired when the employee manifests specific articulable symptoms while
11 working that decrease or lessen the employee's performance of the duties
12 or tasks of the employee's job position.
13 6. Nothing in this section shall restrict an employer's ability to
14 prohibit or take adverse employment action for the possession or use of
15 intoxicating substances during work hours, or require an employer to
16 commit any act that would cause the employer to be in violation of
17 federal law, or that would result in the loss of a federal contract or
18 federal funding.
19 7. As used in this section, "adverse employment action" means refusing
20 to hire or employ, barring or discharging from employment, requiring a
21 person to retire from employment, or discriminating against in compen-
22 sation or in terms, conditions, or privileges of employment.
23 8. A person currently under parole, probation or other state super-
24 vision, or released on bail awaiting trial may not be punished or other-
25 wise penalized for conduct allowed under this chapter.
26 § 128. Registrations and licenses. 1. No registration or license
27 shall be transferable or assignable except that notwithstanding any
28 other provision of law, the registration or license of a sole proprietor
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1 converting to corporate form, where such proprietor becomes the sole
2 stockholder and only officer and director of such new corporation, may
3 be transferred to the subject corporation if all requirements of this
4 chapter remain the same with respect to such registration or license as
5 transferred and, further, the registered organization or licensee shall
6 transmit to the office, within ten days of the transfer of license
7 allowable under this subdivision, on a form prescribed by the office,
8 notification of the transfer of such license.
9 2. No registration or license shall be pledged or deposited as collat-
10 eral security for any loan or upon any other condition; and any such
11 pledge or deposit, and any contract providing therefor, shall be void.
12 3. Licenses issued under this chapter shall contain, in addition to
13 any further information or material to be prescribed by the rules of the
14 office, the following information:
15 (a) name of the person to whom the license is issued;
16 (b) kind of license and what kind of traffic in cannabis is thereby
17 permitted;
18 (c) description by street and number, or otherwise, of licensed prem-
19 ises; and
20 (d) a statement in substance that such license shall not be deemed a
21 property or vested right, and that it may be revoked at any time pursu-
22 ant to law.
23 § 129. Laboratory testing permit. 1. The executive director shall
24 approve and permit one or more independent cannabis testing laboratories
25 to test medical cannabis, adult-use cannabis and/or hemp cannabis.
26 2. To be permitted as an independent cannabis laboratory, a laboratory
27 must apply to the office, on a form and in a manner prescribed by the
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1 office, and must demonstrate the following to the satisfaction of the
2 executive director:
3 (a) the owners and directors of the laboratory are of good moral char-
4 acter;
5 (b) the laboratory and its staff has the skills, resources and exper-
6 tise needed to accurately and consistently perform all of the testing
7 required for adult-use cannabis, medical cannabis and/or hemp cannabis;
8 (c) the laboratory has in place and will maintain adequate policies,
9 procedures, and facility security to ensure proper: collection, label-
10 ing, accessioning, preparation, analysis, result reporting, disposal and
11 storage of adult-use cannabis, medical cannabis and/or hemp cannabis;
12 (d) the laboratory is physically located in New York state;
13 (e) the laboratory has been approved by the department of health
14 pursuant to Part 55-2 of Title 10 of the New York Codes, Rules and Regu-
lations, pertaining to laboratories performing environmental analysis;

and

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

3. The owner of a laboratory testing permit under this section shall not hold a registration or license in any category of this chapter and shall not have any direct or indirect ownership interest in such registered organization or licensee. No board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization or licensee under this chapter, or such person’s immediate family member, shall have an interest or voting rights in any laboratory testing permittee.

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

5. The executive director is authorized to promulgate regulations, in consultation with the commissioner of the department of health, requiring permitted laboratories to perform certain tests and services.

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

1. Industrial cannabis permit - to purchase cannabis for use in the manufacture and sale of any of the following, when such cannabis is not
16 otherwise suitable for consumption purposes, namely: (a) apparel, ener-
17 gy, paper, and tools; (b) scientific, chemical, mechanical and indus-
18 trial products; or (c) any other industrial use as determined by the
19 executive director in regulation.
20 2. Nursery permit - to produce clones, immature plants, seeds, and
21 other agricultural products used specifically for the planting, propa-
22 gation, and cultivation of cannabis, and to sell such to licensed
23 adult-use cultivators, registered organizations, and certified patients
24 or their designated caregivers.
25 3. Solicitor's permit - to offer for sale or to solicit orders for the
26 sale of any cannabis products, medical cannabis and/or hemp cannabis, as
27 a representative of a registered organization or licensee under this
28 chapter.
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1 4. Broker's permit - to act as a broker in the purchase and sale of
2 cannabis products, medical cannabis and/or hemp cannabis for a fee or
3 commission, for or on behalf of a person authorized to cultivate, proc-
4 ess, distribute or dispense cannabis products, medical cannabis or hemp
5 cannabis within the state.
6 5. Trucking permit - to allow for the trucking or transportation of
7 cannabis products, medical cannabis or hemp cannabis by a person other
8 than a registered organization or licensee under this chapter.
9 6. Warehouse permit - to allow for the storage of cannabis, cannabis
10 products, medical cannabis or hemp cannabis at a location not otherwise
11 registered or licensed by the office.
12 7. Delivery permit - to authorize licensed adult-use cannabis dispen-
13 saries to deliver adult-use cannabis and cannabis products directly to
14 cannabis consumers.
15 8. Cannabinoid permit - to sell cannabinoid products derived from hemp cannabis for off-premises consumption.

17 9. Temporary retail cannabis permit - to authorize the retail sale of adult-use cannabis to cannabis consumers, for a limited purpose or duration.

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

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

3 12. Miscellaneous permits - to purchase, receive or sell cannabis, cannabis products or medical cannabis, or receipts, certificates, contracts or other documents pertaining to cannabis, cannabis products, or medical cannabis, in cases not expressly provided for by this chapter, when in the judgment of the office it would be appropriate and consistent with the policy and purpose of this chapter.

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

§ 132. County opt-out; municipal control and preemption. 1. The
provisions of article four of this chapter, authorizing the cultivation,
processing, distribution and sale of adult-use cannabis to cannabis
consumers, shall not be applicable to a county, or city having a popu-
lation of one-hundred thousand or more residents, which adopts a local
law, ordinance or resolution by a majority vote of its governing body to
completely prohibit the establishment or operation of one or more types
of licenses contained in article four of this chapter, within the juris-
diction of the county or city.

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2. Except as provided for in subdivision one of this section, all
county, town, city and village municipalities are hereby preempted from
adopting any rule, ordinance, regulation or prohibition pertaining to
the operation or licensure of registered organizations, adult-use canna-
bis licenses or hemp licenses. However, municipalities may pass ordi-
nances or regulations governing the time, place and manner of licensed
adult-use cannabis retail dispensaries, provided such ordinance or regu-
lation does not make the operation of such licensed retail dispensaries
unreasonably impracticable as determined by the executive director in
his or her sole discretion.

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

§ 134. Penalties for violation of this chapter. 1. Any person who
cultivates for sale or sells cannabis, cannabis products, medical canna-is or hemp cannabis without having an appropriate registration, license
or permit therefor, or whose registration, license, or permit has been
revoked, surrendered or cancelled, shall be guilty of a misdemeanor, and
upon first conviction thereof shall be punished by a fine not more than
five thousand dollars per instance or by imprisonment in a county jail
or penitentiary for a term of not less than thirty days nor more than
one year or both and upon second conviction thereof shall be punished by
a fine not less than ten thousand dollars or by imprisonment in a county
jail or penitentiary for a term of not less than thirty days nor more
than one year or both and upon all subsequent convictions thereof shall
be punished by a fine not less twenty-five thousand dollars or peniten-
tiary for a term of not less than thirty days nor more than one year or
both provided, however, that in default of payment of any fine imposed,
such person shall be imprisoned in a county jail or penitentiary for a
term of not less than thirty days.

2. Any registered organization or licensee, whose registration or
license has been suspended pursuant to the provisions of this chapter,
who sells cannabis, cannabis products, medical cannabis or hemp cannabis
during the suspension period, shall be guilty of a misdemeanor, and upon
conviction thereof shall be punished by a fine of not more than five
14 thousand dollars per instance or by imprisonment in a county jail or
15 penitentiary for a term of not more than six months, or by both such
16 fine and imprisonment.

17 3. Any person who shall make any false statement in the application
18 for a registration, license or a permit under this chapter shall be
19 guilty of a misdemeanor, and upon conviction thereof shall be punishable
20 by a fine of not more than five thousand dollars, or by imprisonment in
21 a county jail or penitentiary for a term of not more than six months or
22 both.

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

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

3 (a) conviction of the registered organization, licensee, permittee or
4 his or her agent or employee for selling any illegal cannabis on the
5 premises registered, licensed or permitted; or
6 (b) for transferring, assigning or hypothecating a registration,
7 license or permit without prior written approval of the office.

8 2. Notwithstanding the issuance of a registration, license or permit
9 by way of renewal, the office may revoke, cancel or suspend such regis-
10 tration, license or permit and/or may impose a civil penalty against any
11 holder of such registration, license or permit, as prescribed by this
12 section, for causes or violations occurring during the license period
immediately preceding the issuance of such registration, license or permit.

3. (a) As used in this section, the term “for cause” shall also include the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the registered, licensed or permitted premises, or in the area in front of or adjacent to the registered or licensed premises, or in any parking lot provided by the registered organization or licensee for use by registered organization or licensee's patrons, which, in the judgment of the office, adversely affects or tends to affect the protection, health, welfare, safety, or repose of the inhabitants of the area in which the registered or licensed premises is located, or results in the licensed premises becoming a focal point for police attention, or is offensive to public decency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The purchase, possession, or consumption of cannabis, medical cannabis and hemp, as permitted by this chapter and consistent with rules and regulations of the office, obtained from a validly registered, licensed or permitted retailer.

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

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

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

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

(d) The transfer by the office of a registration, license, or permit...
11 to any other entity or premises, or the failure or refusal by the office
12 to approve such a transfer.
13 (e) Refusal to approve alteration of premises.
14 (f) Refusal to approve a corporate change in stockholders, stockhold-
15 ings, officers or directors.
16 2. No stay shall be granted pending the determination of such matter
17 except on notice to the office and only for a period of less than thirty
18 days. In no instance shall a stay be granted where the office has issued
19 a summary suspension of a registration, license, or permit for the
20 protection of the public health, safety, and welfare.
21 § 138. Illicit cannabis. 1. "Illicit cannabis" means and includes any
22 cannabis product, medical cannabis or hemp cannabis owned, cultivated,
23 distributed, bought, sold, packaged, rectified, blended, treated, forti-
24 fied, mixed, processed, warehoused, possessed or transported, or on
25 which any tax required to have been paid under any applicable state law
26 has not been paid.
27 2. Any person who shall knowingly possess or have under his or her
28 control any illicit cannabis is guilty of a misdemeanor.

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

4 4. Any person who shall possess or have under his or her control or
5 transport any illicit cannabis with intent to barter or exchange with,
6 or to sell or give to another the same or any part thereof is guilty of
7 a misdemeanor. Such intent is presumptively established by proof that
8 the person knowingly possessed or had under his or her control one or
9 more ounces of illicit cannabis. This presumption may be rebutted.
10 5. Any person who, being the owner, lessee, or occupant of any room,
11 shed, tenement, booth or building, float or vessel, or part thereof,
12 knowingly permits the same to be used for the cultivation, processing,
13 distribution, purchase, sale, warehousing, transportation, or storage of
14 any illicit cannabis, is guilty of a misdemeanor.
15 § 139. Injunction for unlawful manufacturing, sale or consumption of
16 cannabis. 1. If any person shall engage or participate or be about to
17 engage or participate in the cultivation, production, distribution,
18 traffic, or sale of cannabis products, medical cannabis or hemp cannabis
19 in this state without obtaining the appropriate registration, license,
20 or permit therefor, or shall traffic in cannabis products, medical
21 cannabis or hemp cannabis contrary to any provision of this chapter, or
22 otherwise unlawfully, or shall traffic in illegal cannabis products,
23 medical cannabis or hemp cannabis, or, operating a place for profit or
24 pecuniary gain, with a capacity for the assemblage of twenty or more
25 persons, shall permit a person or persons to come to such place of
26 assembly for the purpose of consuming cannabis products without having
27 the appropriate license or permit therefor, the office may present a
28 verified petition or complaint to a justice of the supreme court at a
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1 special term of the supreme court of the judicial district in which such
2 city, village or town is situated, for an order enjoining such person
3 engaging or participating in such activity or from carrying on such
4 business. Such petition or complaint shall state the facts upon which
5 such application is based. Upon the presentation of the petition or
6 complaint, the justice or court may grant an order temporarily restrain-
7 ing any person from continuing to engage in conduct as specified in the
8 petition or complaint, and shall grant an order requiring such person to
9 appear before such justice or court at or before a special term of the
10 supreme court in such judicial district on the day specified therein,
11 not more than ten days after the granting thereof, to show cause why
12 such person should not be permanently enjoined from engaging or partic-
13 ipating in such activity or from carrying on such business, or why such
14 person should not be enjoined from carrying on such business contrary to
15 the provisions of this chapter. A copy of such petition or complaint and
16 order shall be served upon the person, in the manner directed by such
17 order, not less than three days before the return day thereof. On the
18 day specified in such order, the justice or court before whom the same
19 is returnable shall hear the proofs of the parties and may, if deemed
20 necessary or proper, take testimony in relation to the allegations of
21 the petition or complaint. If the justice or court is satisfied that
22 such person is about to engage or participate in the unlawful traffic in
23 cannabis, medical cannabis or hemp cannabis or has unlawfully culti-
24 vated, processed, or sold cannabis products, medical cannabis or hemp
25 cannabis without having obtained a registration or license or contrary
26 to the provisions of this chapter, or has trafficked in illegal canna-
27 bis, or, is operating or is about to operate such place for profit or
28 pecuniary gain, with such capacity, and has permitted or is about to
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1 permit a person or persons to come to such place of assembly for the
2 purpose of consuming cannabis products without having such appropriate
3 license, an order shall be granted enjoining such person from thereafter
4 engaging or participating in or carrying on such activity or business.
5 If, after the entry of such an order in the county clerk's office of the
6 county in which the principal place of business of the corporation or
7 partnership is located, or in which the individual so enjoined resides
8 or conducts such business, and the service of a copy thereof upon such
9 person, or such substituted service as the court may direct, such
10 person, partnership or corporation shall, in violation of such order,
11 cultivate, process, distribute or sell cannabis products, medical canna-
12 bis or hemp cannabis, or illegal cannabis products, medical cannabis or
13 hemp cannabis, or permit a person or persons to come to such place of
14 assembly for the purpose of consuming cannabis products, such activity
15 shall be deemed a contempt of court and be punishable in the manner
16 provided by the judiciary law, and, in addition to any such punishment,
17 the justice or court before whom or which the petition or complaint is
18 heard, may, in his or its discretion, order the seizure and forfeiture
19 of any cannabis products and any fixtures, equipment and supplies used
20 in the operation or promotion of such illegal activity and such property
21 shall be subject to forfeiture pursuant to law. Costs upon the applica-
22 tion for such injunction may be awarded in favor of and against the
23 parties thereto in such sums as in the discretion of the justice or
24 court before whom or which the petition or complaint is heard may seem
25 proper.
26 2. The owner, lessor and lessee of a building, erection or place where
27 cannabis products, medical cannabis or hemp cannabis is unlawfully
28 cultivated, processed, distributed, sold, consumed or permitted to be
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1 unlawfully cultivated, processed, distributed, sold or consumed may be
2 made a respondent or defendant in the proceeding or action.
3 § 140. Persons forbidden to traffic cannabis; certain officials not to
4 be interested in manufacture or sale of cannabis products. 1. The
5 following are forbidden to traffic in cannabis:
6 (a) Except as provided in subdivision one-a of this section, a person
7 who has been convicted of a felony, unless subsequent to such conviction
8 such person shall have received an executive pardon therefor removing
9 this disability, a certificate of good conduct granted by the department
10 of corrections and community supervision, or a certificate of relief
11 from disabilities granted by the department of corrections and community
12 supervision or a court of this state pursuant to the provisions of arti-
13 cle twenty-three of the correction law to remove the disability under
14 this section because of such conviction;
15 (b) A person under the age of twenty-one years;
16 (c) A person who is not a citizen of the United States or an alien
17 lawfully admitted for permanent residence in the United States;
18 (d) A partnership or a corporation, unless each member of the partner-
19 ship, or each of the principal officers and directors of the corpo-
20 ration, is a citizen of the United States or an alien lawfully admitted
21 for permanent residence in the United States, not less than twenty-one
22 years of age, and has not been convicted of any felony, or if so
23 convicted has received, subsequent to such conviction, an executive
24 pardon therefor removing this disability a certificate of good conduct
25 granted by the department of corrections and community supervision, or a
26 certificate of relief from disabilities granted by the department of
27 corrections and community supervision or a court of this state pursuant
28 to the provisions of article twenty-three of the correction law to
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1 remove the disability under this section because of such conviction;
2 provided however that a corporation which otherwise conforms to the
3 requirements of this section and chapter may be licensed if each of its
4 principal officers and more than one-half of its directors are citizens
5 of the United States or aliens lawfully admitted for permanent residence
6 in the United States; and provided further that a corporation organized
7 under the not-for-profit corporation law or the education law which
8 otherwise conforms to the requirements of this section and chapter may
9 be licensed if each of its principal officers and more than one-half of
10 its directors are not less than twenty-one years of age and none of its
11 directors are less than eighteen years of age; and provided further that
12 a corporation organized under the not-for-profit corporation law or the
13 education law and located on the premises of a college as defined by
14 section two of the education law which otherwise conforms to the
15 requirements of this section and chapter may be licensed if each of its
16 principal officers and each of its directors are not less than eighteen
17 years of age;
18 (e) A person who shall have had any registration or license issued
19 under this chapter revoked for cause, until the expiration of two years
20 from the date of such revocation;
21 (f) A person not registered or licensed under the provisions of this
22 chapter, who has been convicted of a violation of this chapter, until
23 the expiration of two years from the date of such conviction; or
24 (g) A corporation or partnership, if any officer and director or any
25 partner, while not licensed under the provisions of this chapter, has
26 been convicted of a violation of this chapter, or has had a registration
27 or license issued under this chapter revoked for cause, until the expi-
28 ration of two years from the date of such conviction or revocation.

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1 1-a. Notwithstanding the provision of subdivision one of this section,
2 a corporation holding a registration or license to traffic cannabis
3 products or medical cannabis shall not, upon conviction of a felony be
4 automatically forbidden to traffic in cannabis products or medical
cannabis, but the application for a registered organization or license by such a corporation shall be subject to denial, and the registration or license of such a corporation shall be subject to revocation or suspension by the office pursuant, consistent with the provisions of article twenty-three-A of the correction law. For any felony conviction by a court other than a court of this state, the office may request the department of corrections and community supervision to investigate and review the facts and circumstances concerning such a conviction, and such department shall, if so requested, submit its findings to the office as to whether the corporation has conducted itself in a manner such that discretionary review by the office would not be inconsistent with the public interest. The department of corrections and community supervision may charge the registered organization, licensee or applicant a fee equivalent to the expenses of an appropriate investigation under this subdivision. For any conviction rendered by a court of this state, the office may request the corporation, if the corporation is eligible for a certificate of relief from disabilities, to seek such a certificate from the court which rendered the conviction and to submit such a certificate as part of the office's discretionary review process.

Except as may otherwise be provided for in regulation, it shall be unlawful for any police commissioner, police inspector, captain, sergeant, roundsman, patrolman or other police official or subordinate of any police department in the state, to be either directly or indirectly interested in the cultivation, processing, distribution, or sale of cannabis products or to offer for sale, or recommend to any registered organization or licensee any cannabis products. A person may not be denied any registration or license granted under the provisions of
4 this chapter solely on the grounds of being the spouse of a public serv-
5 ant described in this section. The solicitation or recommendation made
6 to any registered organization or licensee, to purchase any cannabis
7 products by any police official or subordinate as hereinabove described,
8 shall be presumptive evidence of the interest of such official or subor-
9 dinate in the cultivation, processing, distribution, or sale of cannabis
10 products.

11 3. No elective village officer shall be subject to the limitations set
12 forth in subdivision two of this section unless such elective village
13 officer shall be assigned duties directly relating to the operation or
14 management of the police department.

15 § 141. Access to criminal history information through the division of
16 criminal justice services. In connection with the administration of
17 this chapter, the executive director is authorized to request, receive
18 and review criminal history information through the division of criminal
19 justice services with respect to any person seeking a registration,
20 license, permit or authorization to cultivate, process, distribute or
21 sell medical cannabis, adult use cannabis or hemp cannabis. At the exec-
22 utive director’s request, each person, member, principal and/or officer
23 of the applicant shall submit to the office his or her fingerprints in
24 such form and in such manner as specified by the division, for the
25 purpose of conducting a criminal history search and returning a report
26 thereon in accordance with the procedures and requirements established
27 by the division pursuant to the provisions of article thirty-five of the
28 executive law, which shall include the payment of the prescribed proc01/
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1 constexpr fees for the cost of the division’s full search and retain proce-
2 dures and a national criminal history record check. The executive direc-
3 tor, or his or her designee, shall submit such fingerprints and the
4 processing fee to the division. The division shall forward to the execu-
5 tive director a report with respect to the applicant’s previous criminal
6 history, if any, or a statement that the applicant has no previous crim-
7 inal history according to its files. Fingerprints submitted to the divi-
8 sion pursuant to this subdivision may also be submitted to the federal
9 bureau of investigation for a national criminal history record check. If
10 additional copies of fingerprints are required, the applicant shall
11 furnish them upon request.
12 § 3. Intentionally omitted.
13 § 4. Section 3302 of the public health law, as added by chapter 878 of
14 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and
15 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,
16 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,
17 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39
18 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of
19 subdivision 20, the opening paragraph of subdivision 22 and subdivision
20 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as
21 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-
22 vision 41 as added by section 6 of part A of chapter 447 of the laws of
23 2012, and subdivisions 42 and 43 as added by section 13 of part D of
24 chapter 60 of the laws of 2014, is amended to read as follows:
25 § 3302. Definitions of terms of general use in this article. Except
26 where different meanings are expressly specified in subsequent
27 provisions of this article, the following terms have the following mean-
28 ings:

11. "Addict" means a person who habitually uses a controlled substance
2 for a non-legitimate or unlawful use, and who by reason of such use is
3 dependent thereon.
4 2. "Administer" means the direct application of a controlled
5 substance, whether by injection, inhalation, ingestion, or any other
6 means, to the body of a patient or research subject.
7 3. "Agent" means an authorized person who acts on behalf of or at the
8 direction of a manufacturer, distributor, or dispenser. No person may be
9 authorized to so act if under title VIII of the education law such
10 person would not be permitted to engage in such conduct. It does not
11 include a common or contract carrier, public warehouseman, or employee
12 of the carrier or warehouseman when acting in the usual and lawful
13 course of the carrier's or warehouseman's business.
14 4. ["Concentrated Cannabis" means
15 (a) the separated resin, whether crude or purified, obtained from a
16 plant of the genus Cannabis; or
17 (b) a material, preparation, mixture, compound or other substance
18 which contains more than two and one-half percent by weight of delta-9
19 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering
20 system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) mono-
21 terpene numbering system.
22 5.] "Controlled substance" means a substance or substances listed in
23 section thirty-three hundred six of this [chapter] title.
24 [6.] 5. "Commissioner" means commissioner of health of the state of
25 New York.
26 [7.] 6. "Deliver" or "delivery" means the actual, constructive or
27 attempted transfer from one person to another of a controlled substance,
28 whether or not there is an agency relationship.
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1 [8.] 7. "Department" means the department of health of the state of New York.

3 [9.] 8. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by lawful means, including by means of the internet, and includes the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

7 [10.] 9. "Distribute" means to deliver a controlled substance, including by means of the internet, other than by administering or dispensing.


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


15 (a) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

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

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

23 [14.] 13. "Federal agency" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

1 [16.] 15. "Federal registration number" means such number assigned by
2 the Federal agency to any person authorized to manufacture, distribute,
3 sell, dispense or administer controlled substances.
4 [17.] 16. "Habitual user" means any person who is, or by reason of
5 repeated use of any controlled substance for non-legitimate or unlawful
6 use is in danger of becoming, dependent upon such substance.
7 [18.] 17. "Institutional dispenser" means a hospital, veterinary
8 hospital, clinic, dispensary, maternity home, nursing home, mental
9 hospital or similar facility approved and certified by the department as
10 authorized to obtain controlled substances by distribution and to
11 dispense and administer such substances pursuant to the order of a prac-
12 tioner.
13 [19.] 18. "License" means a written authorization issued by the
14 department or the New York state department of education permitting
15 persons to engage in a specified activity with respect to controlled
16 substances.
17 [20.] 19. "Manufacture" means the production, preparation, propa-
18 gation, compounding, cultivation, conversion or processing of a
19 controlled substance, either directly or indirectly or by extraction
20 from substances of natural origin, or independently by means of chemical
21 synthesis, or by a combination of extraction and chemical synthesis, and
22 includes any packaging or repackaging of the substance or labeling or
23 relabeling of its container, except that this term does not include the
24 preparation, compounding, packaging or labeling of a controlled
25 substance:
26 (a) by a practitioner as an incident to his administering or dispens-
27 ing of a controlled substance in the course of his professional prac-
(b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

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

"Marihuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
(b) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision paragraph (a) of this subdivision, but not including the isoquinoline alkaloids of opium;
(c) opium poppy and poppy straw.

"Opiate" means any substance having an addiction-forming or...
27 addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section [3306] thirty-three_hundred_six of this [article] title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorota- 
5  
6 [24.] 22. "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.
7  
8 [25.] 23. "Person" means individual, institution, corporation, govern- 
9 ment or governmental subdivision or agency, business trust, estate, 
10 trust, partnership or association, or any other legal entity.
11 [26.] 24. "Pharmacist" means any person licensed by the state depart- 
12 ment of education to practice pharmacy.
13 [27.] 25. "Pharmacy" means any place registered as such by the New York state board of pharmacy and registered with the Federal agency pursuant to the federal controlled substances act.
14  
15 [28.] 26. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
16  
17 [29.] 27. "Practitioner" means:
18  
19 A physician, dentist, podiatrist, veterinarian, scientific investi- 
20 gator, or other person licensed, or otherwise permitted to dispense, 
21 administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" 
22 only as to such substances, or conduct relating to such substances, as permitted by his license, permit or otherwise permitted by law.
"Prescribe" means a direction or authorization, by prescription, permitting an ultimate user lawfully to obtain controlled substances from any person authorized by law to dispense such substances.

"Prescription" shall mean an official New York state prescription, an electronic prescription, an oral prescription, or an out-of-state prescription, or any one.

"Sell" means to sell, exchange, give or dispose of to another, or offer or agree to do the same.

"Ultimate user" means a person who lawfully obtains and possesses a controlled substance for his own use or the use by a member of his household or for an animal owned by him or in his custody. It shall also mean and include a person designated, by a practitioner on a prescription, to obtain such substance on behalf of the patient for whom such substance is intended.

"Internet" means collectively computer and telecommunications facilities which comprise the worldwide network of networks that employ a set of industry standards and protocols, or any predecessor or successor protocol to such protocol, to exchange information of all kinds. "Internet," as used in this article, also includes other networks, whether private or public, used to transmit information by electronic means.

"By means of the internet" means any sale, delivery, distribution, or dispensing of a controlled substance that uses the internet, is initiated by use of the internet or causes the internet to be used.

"Online dispenser" means a practitioner, pharmacy, or person
in the United States that sells, delivers or dispenses, or offers to
sell, deliver, or dispense, a controlled substance by means of the
internet.

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1 [37.] 35. "Electronic prescription" means a prescription issued with
an electronic signature and transmitted by electronic means in accord-
ance with regulations of the commissioner and the commissioner of educa-
tion and consistent with federal requirements. A prescription generated
on an electronic system that is printed out or transmitted via facsimile
is not considered an electronic prescription and must be manually
signed.

8 [38.] 36. "Electronic" means of or relating to technology having elec-
trical, digital, magnetic, wireless, optical, electromagnetic or similar
capabilities. "Electronic" shall not include facsimile.

11 [39.] 37. "Electronic record" means a paperless record that is
created, generated, transmitted, communicated, received or stored by
means of electronic equipment and includes the preservation, retrieval,
use and disposition in accordance with regulations of the commissioner
and the commissioner of education and in compliance with federal law and
regulations.

17 [40.] 38. "Electronic signature" means an electronic sound, symbol, or
process, attached to or logically associated with an electronic record
and executed or adopted by a person with the intent to sign the record,
in accordance with regulations of the commissioner and the commissioner
of education.

22 [41.] 39. "Registry" or "prescription monitoring program registry"
means the prescription monitoring program registry established pursuant
to section thirty-three hundred forty-three-a of this article.
"Compounding" means the combining, admixing, mixing, diluting, pooling, reconstituting, or otherwise altering of a drug or bulk drug substance to create a drug with respect to an outsourcing facility under section 503B of the federal Food, Drug and Cosmetic Act and further defined in this section.

"Outsourcing facility" means a facility that:

(a) is engaged in the compounding of sterile drugs as defined in section sixty-eight hundred two of the education law;
(b) is currently registered as an outsourcing facility pursuant to article one hundred thirty-seven of the education law; and
(c) complies with all applicable requirements of federal and state law, including the Federal Food, Drug and Cosmetic Act.

Notwithstanding any other provision of law to the contrary, when an outsourcing facility distributes or dispenses any drug to any person pursuant to a prescription, such outsourcing facility shall be deemed to be providing pharmacy services and shall be subject to all laws, rules and regulations governing pharmacies and pharmacy services.

§ 5. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the laws of 2006, are amended to read as follows:

(13) Marihuana.

(14) Mescaline.

(14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
25 7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo(b,d)pyran.
26 [(16)] (15) Peyote. Meaning all parts of the plant presently classi-
27 fied botanically as Lophophora williamsii Lemaire, whether growing or
28 not, the seeds thereof, any extract from any part of such plant, and
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1 every compound, manufacture, salts, derivative, mixture, or preparation
2 of such plant, its seeds or extracts.
3 [(17)] (16) N-ethyl-3-piperidyl benzilate.
4 [(18)] (17) N-methyl-3-piperidyl benzilate.
5 [(19)] (18) Psilocybin.
6 [(20)] (19) Psilocyn.
7 [(21)] (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols_not
8 derived from the cannabis plant that are equivalents of the substances
9 contained in the plant, or in the resinous extractives of cannabis, sp.
10 and/or synthetic substances, derivatives, and their isomers with similar
11 chemical structure and pharmacological activity such as the following:
12 [\] delta 1 cis or trans tetrahydrocannabinol, and their optical
13 isomers
14 [\] delta 6 cis or trans tetrahydrocannabinol, and their optical
15 isomers
16 [\] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
17 isomers (since nomenclature of these substances is not internationally
18 standardized, compounds of these structures, regardless of numerical
19 designation of atomic positions covered).
20 [(22)] (21) Ethylamine analog of phencyclidine. Some trade or other
21 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
22 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.
23 [(23)] (22) Pyrrolidine analog of phencyclidine. Some trade or other
24 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.
25 [(24)] (23) Thiophene analog of phencyclidine. Some trade or other
26 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienenylanalog of
27 phencyclidine, TPCP, TCP.
28 [(25)] (24) 3,4-methylenedioxymethamphetamine (MDMA).
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1 [(26)] (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
2 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
3 MDE, MDEA.
4 [(27)] (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
5 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
6 N-hydroxy MDA.
7 [(28)] (27) 1-{1- (2-thienyl) cyclohexyl} pyrrolidine. Some other
8 names: TCPY.
9 [(29)] (28) Alpha-ethyltryptamine. Some trade or other names:
10 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
11 3- (2-aminobutyl) indole; Alpha-ET or AET.
12 [(30)] (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
13 names: DOET.
14 [(31)] (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
15 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
16 DOB; 2C-B, Nexus.
17 [(32)] (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
18 optical isomers, salts and salts of isomers.
19 § 6. Title 5-A of article 33 of the public health law is REPEALED.
20 § 7. Section 3382 of the public health law, as added by chapter 878 of
21 the laws of 1972, is amended to read as follows:
22 § 3382. Growing of the plant known as Cannabis by unlicensed persons.
23 A person who, without being licensed so to do under this article or
24 articles_three,_four_or_five_of_the_cannabis_law, grows the plant of the
25 genus Cannabis or knowingly allows it to grow on his land without
26 destroying the same, shall be guilty of a class A misdemeanor.
27 § 8. Subdivision 1 of section 3397-b of the public health law, as
28 added by chapter 810 of the laws of 1980, is amended to read as follows:
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30 1 1. ["Marijuana"] "Cannabis" means [marijuana] cannabis as defined in
31 [section thirty-three hundred two of this chapter] subdivision_three__of
32 section___three___of___the___cannabis___law and shall also include
33 tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinol.
34 § 9. Subdivision 8 of section 1399-n of the public health law, as
35 amended by chapter 13 of the laws of 2003, is amended to read as
36 7 follows:
37 8 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
38 any other matter or substance which contains tobacco or_cannabis.
39 § 10. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
40 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
41 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
42 amended by chapter 664 of the laws of 1985, are amended and a new subdi-
43 vision 21 is added to read as follows:
44 15 5. "Controlled substance" means any substance listed in schedule I,
45 II, III, IV or V of section thirty-three hundred six of the public
46 health law other than [marijuana] cannabis_as__defined__in__subdivision_six
47 of_this_section, but including concentrated cannabis as defined in
48 [paragraph (a) of subdivision four of section thirty-three hundred two
49 of such law] subdivision_twenty-one_of_this_section.
50 6. ["Marijuana"] "Cannabis" means ["marijuana" or "concentrated canna-
22 bis” as those terms are defined in section thirty-three hundred two of
23 the public health law[all_parts_of_the_plant_of_the_genus_cannabis,]
24 whether_growing_or_not;_the_seeds_thereof;_the_resin_extracted_from__any
25 part__of__the__plant;_and_every_compound,_manufacture,_salt,_derivative,
26 mixture,_or_preparation_of_the_plant,_its_seeds_or_resin._It_does_not
27 include__the__mature_stalks_of_the_plant,_fiber_produced_from_the_stalks,
28 oil_or_cake_made_from_the_seeds_of_the_plant,_any_other_compound._It does
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1 facture._salt,_derivative._mixture,_or_preparation_of_the_mature_stalks
2 (except_the_resin_extracted_therefrom),_fiber,_oil,___or_cake,___or__the
3 sterilized__seed_of_the_plant_which_is_incapable_of_germination._It does
4 not__include__all_parts_of_the_plant_cannabis_sativa_l.,_whether_growing
5 or_not, having_no_more_than_three-tenths_of_one_percent_tetrahydrocanna-
6 binol_(THC).
7 9. "Hallucinogen" means any controlled substance listed in schedule
8 I(d) (5), [(18), (19), (20), (21) and (22)] (17),(18),(19),(20) and
9 (21).
10 21._“Concentrated_cannabis”_means:_(a)_the__separated__resin,___whether
11 crude_or_purified, obtained_from_a_plant_of_the_genus_cannabis;_or_(b)_a
12 material, preparation, mixture, compound or other substance which
13 contains_more_than_three_percent_by_weight_of_delta-9_tetrahydrocannabi-
14 nol, or its isomer, delta-8_dibenzopyran_numbering_system, or delta-1
15 tetrahydrocannabinol or its isomer, delta_1_(6)_monoterpene_numbering
16 system.
17 § 11. Subdivision 4 of section 220.06 of the penal law, as amended by
18 chapter 537 of the laws of 1998, is amended to read as follows:
19 4. one or more preparations, compounds, mixtures or substances
20 containing concentrated cannabis as defined in [paragraph (a) of subdi-
§ 12. Subdivision 10 of section 220.09 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

10. one or more preparations, compounds, mixtures or substances containing concentrated cannabis as defined in paragraph (a) of subdivision twenty-one of section 220.00 of this article and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more; or

§ 13. Subdivision 3 of section 220.34 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

3. concentrated cannabis as defined in paragraph (a) of subdivision twenty-one of section 220.00 of this article; or

§ 14. Section 220.50 of the penal law, as amended by chapter 627 of the laws of 1990, is amended to read as follows:

A person is guilty of criminally using drug paraphernalia in the second degree when he knowingly possesses or sells:

1. Diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, mannitol, mannite, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for
20 purposes of unlawfully mixing, compounding, or otherwise preparing any
21 narcotic drug or stimulant, other than cannabis or concentrated cannabis; or
22
23 2. Gelatine capsules, glassine envelopes, vials, capsules or any other
24 material suitable for the packaging of individual quantities of narcotic
25 drugs or stimulants under circumstances evincing an intent to use, or
26 under circumstances evincing knowledge that some person intends to use,
27 the same for the purpose of unlawfully manufacturing, packaging or
28 dispensing of any narcotic drug or stimulant, other than cannabis or
29 concentrated cannabis; or
30
31 3. Scales and balances used or designed for the purpose of weighing or
32 measuring controlled substances, under circumstances evincing an intent
33 to use, or under circumstances evincing knowledge that some person
34 intends to use, the same for purpose of unlawfully manufacturing, pack-
35 aging or dispensing of any narcotic drug or stimulant, other than canna-
36 bis or concentrated cannabis.
37
38 Criminally using drug paraphernalia in the second degree is a class A
39 misdemeanor.
40
41 § 15. Section 221.00 of the penal law, as amended by chapter 90 of the
42 laws of 2014, is amended to read as follows:
43
44 § 221.00 [Marihuana] Cannabis; definitions.
45 Unless the context in which they are used clearly otherwise requires,
46 the terms occurring in this article shall have the same meaning ascribed
47 to them in article two hundred twenty of this chapter. Any act that is
48 lawful under title five-A of article thirty-three of the public health
49 articles three, four or five, of the cannabis law is not a violation of
50 this article.
20 § 15-a. Section 221.00 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

22 § 221.00 [Marihuana] Cannabis; definitions.

23 Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter.

26 § 16. Section 221.05 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

28 § 221.05 Unlawful possession of [marihuana] cannabis.

1 A person is guilty of unlawful possession of [marihuana] cannabis when

2 he or she knowingly and unlawfully possesses [marihuana]:

3 1. cannabis and is less than twenty-one years of age; or

4 2. cannabis in a public place, as defined in section 240.00 of this part, and such cannabis is burning.

5 Unlawful possession of [marihuana] cannabis is a violation punishable only by a fine of not more than one hundred fifty dollars. However, where the defendant has previously been convicted of an offense defined in this article or article 220 of this chapter, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period when such possession is by a person less than twenty-one years of age and of an aggregate weight of less than one-half of one ounce or a fine of not more than one hundred dollars when such
§ 17. Section 221.15 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.15 Criminal possession of [marihuana] cannabis in the [fourth] third degree.

A person is guilty of criminal possession of [marihuana] cannabis in the [fourth] third degree when he or she knowingly and unlawfully possesses [one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of] an aggregate weight of more than [two ounces] one ounce of cannabis or more than five grams of concentrated cannabis.

Criminal possession of [marihuana] cannabis in the [fourth] third degree is a [class A misdemeanor] violation punishable by a fine of not more than one hundred twenty-five dollars. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law.

§ 18. Section 221.20 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:
20 § 221.20 Criminal possession of [marihuana] cannabis in the [third]
21 second degree.
22 A person is guilty of criminal possession of [marihuana] cannabis in
23 the [third] second degree when he or __ she knowingly and unlawfully
24 possesses [one or more preparations, compounds, mixtures or substances
25 containing marihuana and the preparations, compounds, mixtures or
26 substances are of] an aggregate weight of more than [eight] two ounces
27 of_cannabis_or_more_than_ten_ounces_of_concentrated_cannabis.
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1 Criminal possession of [marihuana] cannabis in the [third] second
2 degree is a class [E felony] A_misdemeanor_punishable_by_a_fine_not_more
3 than_one_hundred_twenty-five_dollars_per_ounce_posessed__in__excess__of
4 two__ounces.__However__where_the_defendant_has_previously_been_convicted
5 of__an__offense_defined_in_this_article_or_article_two_hundred_twenty_of
6 this_title__committed_within_the_three_years_immediately_preceding__such
7 violation__it__shall__be_punishable__(a)__only_by_a_fine_of_not_more_than
8 two_hundred_dollars_per_ounce_posessed_in_excess_of_two_ounces__if__the
9 defendant__was__previously_convicted_of_one_such_offense_committed_during
10 such_period_and__(b)__by_a_fine__of__not__more_than_two__hundred__fifty
11 dollars__per_ounce_posessed_in_excess_of_two_ounces_or_a_term_of_impri-
12 sonment_not_in_excess_of_fifteen_days_or__both__if__the__defendant__was
13 previously__convicted_of_two__such_offenses_committed_during_such_period.
14 The_provisions_of_this_section_shall_not_apply_to_certified_patients__or
15 designated__caregivers_as_lawfully_registered_under_article_three_of_the
16 cannabis_law.
17 § 19. Section 221.25 of the penal law, as amended by chapter 265 of
18 the laws of 1979, the opening paragraph as amended by chapter 75 of the
19 laws of 1995, is amended to read as follows:
20 § 221.25 Criminal possession of [marihuana] cannabis in the [second]
21 first degree.
22 A person is guilty of criminal possession of [marihuana] cannabis in
23 the [second] first degree when he or she knowingly and unlawfully
24 possesses [one or more preparations, compounds, mixtures or substances
25 containing marihuana and the preparations, compounds, mixtures or
26 substances are of] an aggregate weight of more than [sixteen] sixty-four
27 ounces of cannabis or more than eighty grams of concentrated cannabis.
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1 Criminal possession of [marihuana] cannabis in the [second] first
2 degree is a class [D] E felony.
3 § 20. Sections 221.10 and 221.30 of the penal law are REPEALED.
4 § 21. Section 221.35 of the penal law, as amended by chapter 265 of
5 the laws of 1979, the opening paragraph as amended by chapter 75 of the
6 laws of 1995, is amended to read as follows:
7 § 221.35 Criminal sale of [marihuana] cannabis in the fifth degree.
8 A person is guilty of criminal sale of [marihuana] cannabis in the
9 fifth degree when he or she knowingly and unlawfully sells, [without]
10 for consideration[, one or more preparations, compounds, mixtures or
11 substances containing marihuana and the preparations, compounds,
12 mixtures or substances are] cannabis or cannabis concentrate of [an
13 aggregate weight of two grams or less; or one cigarette containing mari-
14 huana] any weight.
15 Criminal sale of [marihuana] cannabis in the fifth degree is a [class
16 B misdemeanor] violation punishable by a fine not more than the greater
17 of two-hundred and fifty dollars or two times the value of the sale.
18 § 22. Section 221.40 of the penal law, as added by chapter 360 of the
19 laws of 1977, is amended to read as follows:
§ 221.40 Criminal sale of [marihuana] cannabis in the fourth degree.

A person is guilty of criminal sale of [marihuana] cannabis in the fourth degree when he or she knowingly and unlawfully sells [marihuana except as provided in section 221.35 of this article] cannabis_of an aggregate_weight_of more_than_one_ounce_or more_than_five_grams_of cannabis_concentrate.

Criminal sale of [marihuana] cannabis in the fourth degree is a [class A] misdemeanor punishable_by_a_fine_of not_more_than_the_greater_of_five hundred_dollars_or two_times_the_value_of_the_sale_or a_maximum_of_three months_imprisonment, or both.

§ 23. Section 221.45 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.45 Criminal sale of [marihuana] cannabis in the third degree.

A person is guilty of criminal sale of [marihuana] cannabis in the third degree when he or she knowingly and unlawfully sells [one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams] four_ounces_of_cannabis_or more than_twenty_grams_of_concentrated_cannabis.

Criminal sale of [marihuana] cannabis in the third degree is a [class E felony] misdemeanor punishable_by_a_fine_of not_more_than_the_greater_of_one_thousand_dollars_or two_times_the_value_of_the_sale_or_a_maximum_of_one_year_imprisonment_or both.

§ 24. Section 221.50 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:
§ 221.50 Criminal sale of [marihuana] cannabis in the second degree.

A person is guilty of criminal sale of [marihuana] cannabis in the second degree when he knowingly and unlawfully sells [one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of] more than [four ounces, or knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana to a person less than eighteen years of age] sixteen ounces of cannabis or more than eighty grams of concentrated cannabis or any amount of cannabis or concentrated cannabis to any person under twenty-one years of age.

Criminal sale of [marihuana] cannabis in the second degree is a class D felony.

§ 25. Section 221.55 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.55 Criminal sale of [marihuana] cannabis in the first degree.

A person is guilty of criminal sale of [marihuana] cannabis in the first degree when he knowingly and unlawfully sells [one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of] more than [sixteen] sixty-four ounces of cannabis or three hundred and twenty grams of cannabis concentrate.

Criminal sale of [marihuana] cannabis in the first degree is a class C felony.

§ 26. The penal law is amended by adding a new section 221.60 to read as follows:
§ 221.60 Licensing of cannabis production and distribution.

The provisions of this article and of article two hundred twenty of this title shall not apply to any person exempted from criminal penalties pursuant to the provisions of this chapter or possessing, manufacturing, transporting, distributing, selling or transferring cannabis or concentrated cannabis, or engaged in any other action that is in compliance with articles three, four or five of the cannabis law.

§ 27. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50 of the criminal procedure law, paragraphs (i) and (j) as added by chapter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of the laws of 1977 and as relettered by chapter 192 of the laws of 1980 and such subdivision as renumbered by chapter 142 of the laws of 1991, are amended to read as follows:

(i) prior to the filing of an accusatory instrument in a local criminal court against such person, the prosecutor elects not to prosecute such person. In such event, the prosecutor shall serve a certification of such disposition upon the division of criminal justice services and upon the appropriate police department or law enforcement agency which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one; or

(j) following the arrest of such person, the arresting police agency, prior to the filing of an accusatory instrument in a local criminal court but subsequent to the forwarding of a copy of the fingerprints of such person to the division of criminal justice services, elects not to proceed further. In such event, the head of the arresting police agency
18 shall serve a certification of such disposition upon the division of
19 criminal justice services which, upon receipt thereof, shall comply with
20 the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of
21 this section in the same manner as is required thereunder with respect
22 to an order of a court entered pursuant to said subdivision one; or
23 (k) (i) The accusatory instrument alleged a violation of article two
24 hundred twenty or section 240.36 of the penal law, prior to the taking
25 effect of article two hundred twenty-one of the penal law, or a
26 violation of article two hundred twenty-one of the penal law; (ii) the
27 sole controlled substance involved is [marijuana] cannabis; and (iii)
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1 the conviction was only for a violation or violations; and (iv) at
2 least three years have passed since the offense occurred.
3 § 28. Paragraph (f) of subdivision 2 of section 850 of the general
4 business law is REPEALED.
5 § 29. Paragraph (h) of subdivision 2 of section 850 of the general
6 business law, as amended by chapter 812 of the laws of 1980, is amended
7 to read as follows:
8 (h) Objects, used or designed for the purpose of ingesting, inhaling,
9 or otherwise introducing [marihuana,] cocaine, hashish, or hashish oil
10 into the human body.
11 § 30. Section 114-a of the vehicle and traffic law, as added by chap-
12 ter 163 of the laws of 1973, is amended to read as follows:
13 § 114-a. Drug. The term "drug" when used in this chapter, means and
14 includes any substance listed in section thirty-three hundred six of the
15 public health law and cannabis and concentrated cannabis as defined in
16 section 220.00 of the penal law.
17 § 31. The article heading of article 20-B of the tax law, as added by
18 chapter 90 of the laws of 2014, is amended to read as follows:

19 ARTICLE 20-B

20 EXCISE TAX ON MEDICAL [MARIHUANA] CANNABIS

21 § 32. The paragraph heading and subparagraph (i) of paragraph (b) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, are amended to read as follows:

24 Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses. (i) A violation of subdivision two, three, or four [or four-a] of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. A violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment.

10 § 33. The paragraph heading and subparagraph (i) of paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, are amended to read as follows:

13 Felony offenses. (i) A person who operates a vehicle (A) in violation of subdivision four-a of section eleven hundred ninety-two of this article after
17 having been convicted of a violation of subdivision two, two-a, three,
18 four or four-a of such section or of vehicular assault in the second or
19 first degree, as defined, respectively, in sections 120.03 and 120.04
20 and aggravated vehicular assault as defined in section 120.04-a of the
21 penal law or of vehicular manslaughter in the second or first degree, as
22 defined, respectively, in sections 125.12 and 125.13 and aggravated
23 vehicular homicide as defined in section 125.14 of such law, within the
24 preceding ten years, or (B) in violation of paragraph (b) of subdivision
25 two-a of section eleven hundred ninety-two of this article shall be
26 guilty of a class E felony, and shall be punished by a fine of not less
27 than one thousand dollars nor more than five thousand dollars or by a
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1 period of imprisonment as provided in the penal law, or by both such
2 fine and imprisonment.

§ 34. Subdivision 1 of section 171-a of the tax law, as amended by
4 section 3 of part MM of chapter 59 of the laws of 2018, is amended to
5 read as follows:
6 1. All taxes, interest, penalties and fees collected or received by
7 the commissioner or the commissioner's duly authorized agent under arti-
8 cles nine (except section one hundred eighty-two-a thereof and except as
9 otherwise provided in section two hundred five thereof), nine-A,
10 twelve-A (except as otherwise provided in section two hundred eighty-
11 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
12 section three hundred twelve thereof), eighteen, nineteen, twenty
13 (except as otherwise provided in section four hundred eighty-two there-
14 of), twenty-B, twenty-C, twenty-one, twenty-two, twenty-four, twenty-
15 six, twenty-eight (except as otherwise provided in section eleven
16 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
17 nine-B, thirty-one (except as otherwise provided in section fourteen
18 hundred twenty-one thereof), thirty-three and thirty-three-A of this
19 chapter shall be deposited daily in one account with such responsible
20 banks, banking houses or trust companies as may be designated by the
21 comptroller, to the credit of the comptroller. Such an account may be
22 established in one or more of such depositories. Such deposits shall be
23 kept separate and apart from all other money in the possession of the
24 comptroller. The comptroller shall require adequate security from all
25 such depositories. Of the total revenue collected or received under such
26 articles of this chapter, the comptroller shall retain in the comp-
27 troller's hands such amount as the commissioner may determine to be
28 necessary for refunds or reimbursements under such articles of this
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1 chapter out of which amount the comptroller shall pay any refunds or
2 reimbursements to which taxpayers shall be entitled under the provisions
3 of such articles of this chapter. The commissioner and the comptroller
4 shall maintain a system of accounts showing the amount of revenue
5 collected or received from each of the taxes imposed by such articles.
6 The comptroller, after reserving the amount to pay such refunds or
7 reimbursements, shall, on or before the tenth day of each month, pay
8 into the state treasury to the credit of the general fund all revenue
9 deposited under this section during the preceding calendar month and
10 remaining to the comptroller's credit on the last day of such preceding
11 month, (i) except that the comptroller shall pay to the state department
12 of social services that amount of overpayments of tax imposed by article
13 twenty-two of this chapter and the interest on such amount which is
14 certified to the comptroller by the commissioner as the amount to be
15 credited against past-due support pursuant to subdivision six of section
16 one hundred seventy-one-c of this article, (ii) and except that the
17 comptroller shall pay to the New York state higher education services
18 corporation and the state university of New York or the city university
19 of New York respectively that amount of overpayments of tax imposed by
20 article twenty-two of this chapter and the interest on such amount which
21 is certified to the comptroller by the commissioner as the amount to be
22 credited against the amount of defaults in repayment of guaranteed
23 student loans and state university loans or city university loans pursu-
24 ant to subdivision five of section one hundred seventy-one-d and subdi-
25 vision six of section one hundred seventy-one-e of this article, (iii)
26 and except further that, notwithstanding any law, the comptroller shall
27 credit to the revenue arrearage account, pursuant to section
28 ninety-one-a of the state finance law, that amount of overpayment of tax
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1 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
2 or thirty-three of this chapter, and any interest thereon, which is
3 certified to the comptroller by the commissioner as the amount to be
4 credited against a past-due legally enforceable debt owed to a state
5 agency pursuant to paragraph (a) of subdivision six of section one
6 hundred seventy-one-f of this article, provided, however, he shall cred-
7 it to the special offset fiduciary account, pursuant to section ninety-
8 one-c of the state finance law, any such amount creditable as a liabil-
9 ity as set forth in paragraph (b) of subdivision six of section one
10 hundred seventy-one-f of this article, (iv) and except further that the
11 comptroller shall pay to the city of New York that amount of overpayment
12 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
13 thirty-B or thirty-three of this chapter and any interest thereon that
14 is certified to the comptroller by the commissioner as the amount to be
15 credited against city of New York tax warrant judgment debt pursuant to
16 section one hundred seventy-one-l of this article, (v) and except
17 further that the comptroller shall pay to a non-obligated spouse that
18 amount of overpayment of tax imposed by article twenty-two of this chap-
19 ter and the interest on such amount which has been credited pursuant to
20 section one hundred seventy-one-c, one hundred seventy-one-d, one
21 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
22 ty-one-l of this article and which is certified to the comptroller by
23 the commissioner as the amount due such non-obligated spouse pursuant to
24 paragraph six of subsection (b) of section six hundred fifty-one of this
25 chapter; and (vi) the comptroller shall deduct a like amount which the
26 comptroller shall pay into the treasury to the credit of the general
27 fund from amounts subsequently payable to the department of social
28 services, the state university of New York, the city university of New
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1 York, or the higher education services corporation, or the revenue
2 arrearage account or special offset fiduciary account pursuant to
3 section ninety-one-a or ninety-one-c of the state finance law, as the
4 case may be, whichever had been credited the amount originally withheld
5 from such overpayment, and (vii) with respect to amounts originally
6 withheld from such overpayment pursuant to section one hundred seventy-
7 one-l of this article and paid to the city of New York, the comptroller
8 shall collect a like amount from the city of New York.
9 § 35. Section 490 of the tax law, as added by chapter 90 of the laws
10 of 2014, is amended to read as follows:
11 § 490. [Definitions] Excise_tax_on_medical__cannabis. 1. (a) [All
12 definitions of terms applicable to title five-A of article thirty-three
13 of the public health law shall apply to this article.] For__purposes__of
this article, the terms “medical cannabis,” “registered organization,”
“certified patient,” and “designated caregiver” shall have the same
definitions as in section three of the cannabis law.

(b) As used in this section, where not otherwise specifically defined
and unless a different meaning is clearly required “gross receipt” means
the amount received in or by reason of any sale, conditional or other-
wise, of medical [marihuana] cannabis or in or by reason of the furnish-
ing of medical [marihuana] cannabis from the sale of medical [marihuana]
cannabis provided by a registered organization to a certified patient or
designated caregiver. Gross receipt is expressed in money, whether paid
in cash, credit or property of any kind or nature, and shall be deter-
mined without any deduction therefrom on account of the cost of the
service sold or the cost of materials, labor or services used or other
costs, interest or discount paid, or any other expenses whatsoever.

“Amount received” for the purpose of the definition of gross receipt, as
the term gross receipt is used throughout this article, means the amount
charged for the provision of medical [marihuana] cannabis.

2. There is hereby imposed an excise tax on the gross receipts from
the sale of medical [marihuana] cannabis by a registered organization to
a certified patient or designated caregiver, to be paid by the regis-
tered organization, at the rate of seven percent. The tax imposed by
this article shall be charged against and be paid by the registered
organization and shall not be added as a separate charge or line item on
any sales slip, invoice, receipt or other statement or memorandum of the
price given to the retail customer.

3. The commissioner may make, adopt and amend rules, regulations,
procedures and forms necessary for the proper administration of this
4. Every registered organization that makes sales of medical [marihuana-]
15 na] cannabis subject to the tax imposed by this article shall, on or
16 before the twentieth date of each month, file with the commissioner a
17 return on forms to be prescribed by the commissioner, showing its
18 receipts from the retail sale of medical [marihuana] cannabis during the
19 preceding calendar month and the amount of tax due thereon. Such returns
20 shall contain such further information as the commissioner may require.
21 Every registered organization required to file a return under this
22 section shall, at the time of filing such return, pay to the commis-
23 sioner the total amount of tax due on its retail sales of medical [marihuana-
24 na] cannabis for the period covered by such return. If a return is not
25 filed when due, the tax shall be due on the day on which the return is
26 required to be filed.
27 5. Whenever the commissioner shall determine that any moneys received
28 under the provisions of this article were paid in error, he may cause
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1 the same to be refunded, with interest, in accordance with such rules
2 and regulations as he may prescribe, except that no interest shall be
3 allowed or paid if the amount thereof would be less than one dollar.
4 Such interest shall be at the overpayment rate set by the commissioner
5 pursuant to subdivision twenty-sixth of section one hundred seventy-one
6 of this chapter, or if no rate is set, at the rate of six percent per
7 annum, from the date when the tax, penalty or interest to be refunded
8 was paid to a date preceding the date of the refund check by not more
9 than thirty days. Provided, however, that for the purposes of this
10 subdivision, any tax paid before the last day prescribed for its payment
11 shall be deemed to have been paid on such last day. Such moneys received
12 under the provisions of this article which the commissioner shall deter-
13 mine were paid in error, may be refunded out of funds in the custody of
14 the comptroller to the credit of such taxes provided an application
15 therefor is filed with the commissioner within two years from the time
16 the erroneous payment was made.
17 6. The provisions of article twenty-seven of this chapter shall apply
18 to the tax imposed by this article in the same manner and with the same
19 force and effect as if the language of such article had been incorpo-
20 rated in full into this section and had expressly referred to the tax
21 imposed by this article, except to the extent that any provision of such
22 article is either inconsistent with a provision of this article or is
23 not relevant to this article.
24 7. All taxes, interest and penalties collected or received by the
25 commissioner under this article shall be deposited and disposed of
26 pursuant to the provisions of section one hundred seventy-one-a of this
27 chapter, provided that an amount equal to one hundred percent collected
28 under this article less any amount determined by the commissioner to be
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1 reserved by the comptroller for refunds or reimbursements shall be paid
2 by the comptroller to the credit of the medical [marihuana] cannabis
3 trust fund established by section eighty-nine-h of the state finance
4 law.
5 8. A registered organization that dispenses medical [marihuana] canna-
6 bis shall provide to the department information on where the medical
7 [marihuana] cannabis was dispensed and where the medical [marihuana]
8 cannabis was manufactured. A registered organization that obtains [mari-
9 huana] cannabis from another registered organization shall obtain from
10 such registered organization information on where the medical [marihu-
11 na] cannabis was manufactured.

12 § 36. Section 491 of the tax law, as added by chapter 90 of the laws of 2014, subdivision 1 as amended by section 1 of part II of chapter 60 of the laws of 2016, is amended to read as follows:

15 § 491. Returns to be secret. 1. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person engaged or retained by such department on an independent contract basis or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the contents or any other information relating to the business of a distributor, owner or other person contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, [the state department of health] office_of_cannabis_management, or the commissioner in an action or proceeding under the provisions of this chapter or on behalf of the state or the commissioner in any other action or proceeding involving the collection of a tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are...
10 directly involved in such action or proceeding, or in an action or
11 proceeding relating to the regulation or taxation of medical [marihuana]
12 cannabis on behalf of officers to whom information shall have been
13 supplied as provided in subdivision two of this section, in any of which
14 events the court may require the production of, and may admit in
15 evidence so much of said returns or reports or of the facts shown there-
16 by as are pertinent to the action or proceeding and no more. Nothing
17 herein shall be construed to prohibit the commissioner, in his or her
18 discretion, from allowing the inspection or delivery of a certified copy
19 of any return or report filed under this article or of any information
20 contained in any such return or report by or to a duly authorized offi-
21 cer or employee of the [state department of health] office_of_cannabis
22 management; or by or to the attorney general or other legal represen-
23 tatives of the state when an action shall have been recommended or
24 commenced pursuant to this chapter in which such returns or reports or
25 the facts shown thereby are directly involved; or the inspection of the
26 returns or reports required under this article by the comptroller or
27 duly designated officer or employee of the state department of audit and
28 control, for purposes of the audit of a refund of any tax paid by a

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1 registered organization or other person under this article; nor to
2 prohibit the delivery to a registered organization, or a duly authorized
3 representative of such registered organization, a certified copy of any
4 return or report filed by such registered organization pursuant to this
5 article, nor to prohibit the publication of statistics so classified as
6 to prevent the identification of particular returns or reports and the
7 items thereof. This section shall also not be construed to prohibit the
8 disclosure, for tax administration purposes, to the division of the
9 budget and the office of the state comptroller, of information aggregated from the returns filed by all the registered organizations making sales of, or manufacturing, medical [marihuana] cannabis in a specified county, whether the number of such registered organizations is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may, in his or her discretion, permit the proper officer of any county entitled to receive an allocation, following appropriation by the legislature, pursuant to this article and section eighty-nine-h of the state finance law, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or such representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

2. The commissioner, in his or her discretion and pursuant to such rules and regulations as he or she may adopt, may permit [the commissioner of internal revenue of the United States, or] the appropriate officers of any other state which regulates or taxes medical [marihuana] cannabis, or the duly authorized representatives of such [commissioner or] officers, to inspect returns or reports made pursuant to this article, or may furnish to such [commissioner or] other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply [such commissioner or] any such officers or such representatives with information relating to the business of a registered organization making returns or reports hereunder. The commissioner
8 may refuse to supply information pursuant to this subdivision [to the
9 commissioner of internal revenue of the United States or] to the offi-
10 cers of any other state if the statutes [of the United States, or] of
11 the state represented by such officers, do not grant substantially simi-
12 lar privileges to the commissioner, but such refusal shall not be manda-
13 tory. Information shall not be supplied to [the commissioner of internal
14 revenue of the United States or] the appropriate officers of any other
15 state which regulates or taxes medical [marihuana] cannabis, or the duly
16 authorized representatives [of such commissioner or] of any of such
17 officers, unless such [commissioner,] officer or other representatives
18 shall agree not to divulge or make known in any manner the information
19 so supplied, but such officers may transmit such information to their
20 employees or legal representatives when necessary, who in turn shall be
21 subject to the same restrictions as those hereby imposed upon such
22 [commissioner,] officer or other representatives.
23 3. (a) Any officer or employee of the state who willfully violates the
24 provisions of subdivision one or two of this section shall be dismissed
25 from office and be incapable of holding any public office in this state
26 for a period of five years thereafter.
27 (b) Cross-reference: For criminal penalties, see article thirty-seven
28 of this chapter.

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1 § 37. The tax law is amended by adding a new article 20-C to read as
2 follows:
3 ARTICLE_20-C
4 TAX_ON_ADULT-USE_CANNABIS_PRODUCTS
5 Section_492._Definitions.
6 493._Tax_on_cannabis.
§ 497. Registration and renewal.

§ 498. Returns and payment of tax.

§ 499. Returns to be kept secret.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Cannabis" means all parts of a plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. For purposes of this article, cannabis does not include medical cannabis or hemp as defined in section three of the cannabis law.

(b) "Cannabis flower" means the flower of a plant of the genus cannabis that has been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including but not limited to, concentrated cannabis or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis flower excludes leaves and stem.

(c) "Cannabis trim" means all parts of a plant of the genus cannabis other than cannabis flowers that have been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including but not limited to, concentrated cannabis and other ingredients.

(d) "Adult-use cannabis product" means a cannabis product as defined in section three of the cannabis law. For purposes of this article, under no circumstances shall adult-use cannabis product include medical cannabis or hemp cannabis as defined in section three of the cannabis law.
"Person" means every individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

"Wholesaler" means any person that sells or transfers adult-use cannabis products to a retail dispensary licensed pursuant to section seventy-two of the cannabis law. Where the cultivator or processor is also the retail dispensary, the retail dispensary shall be the wholesaler for purposes of this article.

"Cultivation" has the same meaning as described in subdivision two of section sixty-eight of the cannabis law.

"Retail dispensary" means a dispensary licensed to sell adult-use cannabis products pursuant to section seventy-two of the cannabis law.

"Transfer" means to grant, convey, hand over, assign, sell, exchange or barter, in any manner or by any means, with or without consideration.

"Sale" means any transfer of title, possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefor.

"Processor" has the same meaning as described in subdivision two of section sixty-nine of the cannabis law.

§ 493. Tax on cannabis. (a) There is hereby imposed and shall be paid a tax on the cultivation of cannabis flower and cannabis trim cannabis pursuant to the cannabis law at the rate of one dollar per dry-weight.
6 gram of cannabis flower and twenty-five cents per dry-weight gram of 
7 cannabis trim. Where the wholesaler is not the cultivator, such tax 
8 shall be collected from the cultivator by the wholesaler at the time 
9 such flower or trim is transferred to the wholesaler. Where the whole-
10 saler is the cultivator, such tax shall be paid by the wholesaler and 
11 shall accrue at the time of sale or transfer to a retail dispensary. 
12 Where the cultivator is also the retail dispensary, such tax shall 
13 accrue at the time of the sale to the retail customer. 
14 (b) In addition to the tax imposed by subdivision (a) of this section, 
15 there is hereby imposed a tax on the sale or transfer by a wholesaler to 
16 a retail dispensary of adult-use cannabis products, to be paid by such 
17 wholesaler. Where the wholesaler is not the retail dispensary, such tax 
18 shall be at the rate of twenty percent of the invoice price charged by 
19 the wholesaler to a retail dispensary, and shall accrue at the time of 
20 such sale. Where the wholesaler is the retail dispensary, such tax shall 
21 be at the rate of twenty percent of the price charged to the retail 
22 customer and shall accrue at the time of such sale. 
23 (c) In addition to the taxes imposed by subdivisions (a) and (b) of 
24 this section, there is hereby imposed a tax on the sale or transfer by a 
25 wholesaler to a retail dispensary of adult-use cannabis products, in 
26 trust for and on account of the county in which the retail dispensary is 
27 located. Such tax shall be paid by the wholesaler and shall accrue at 
28 the time of such sale. Where the wholesaler is not the retail dispensary, 
29 such tax shall be at the rate of two percent of the invoice price charged by 
30 the wholesaler to a retail dispensary. Where the wholesaler  
31 is the retail dispensary, such tax shall be at the rate of two percent 
32 of the price charged to the retail customer.
5 (d) Notwithstanding any other provision of law to the contrary, the
6 taxes imposed by article twenty of this chapter shall not apply to any
7 product subject to tax under this article.
8 § 494. Registration and renewal. (a) Every wholesaler must file with
9 the commissioner a properly completed application for a certificate of
10 registration before engaging in business. In order to apply for such
11 certificate of registration, such person must first be in possession of
12 a valid license from the office of cannabis management. An application
13 for a certificate of registration must be submitted electronically, on a
14 form prescribed by the commissioner, and must be accompanied by a non-
15 refundable application fee of six hundred dollars. A certificate of
16 registration shall not be assignable or transferable and shall be
17 destroyed immediately upon such person ceasing to do business as speci-
18 fied in such certificate, or in the event that such business never
19 commenced.
20 (b) The commissioner shall refuse to issue a certificate of registra-
21 tion to any applicant and shall revoke the certificate of registration
22 of any such person who does not possess a valid license from the office
23 of cannabis management. The commissioner may refuse to issue a certif-
24 icate of registration to any applicant where such applicant: (1) has a
25 past-due liability as that term is defined in section one hundred seven-
26 ty-one-v of this chapter; (2) has had a certificate of registration
27 under this article, a license from the office of cannabis management, or
28 any license or registration provided for in this chapter revoked within
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30 one year from the date on which such application was filed; (3) has been
31 convicted of a crime provided for in this chapter within one year from
32 the date on which such application was filed of the certificate's issu-
(4) wilfully fails to file a report or return required by this article; (5) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false; or (6) willfully fails to collect or truthfully account for or pay over any tax imposed by this article.

(c) A certificate of registration shall be valid for the period specified thereon, unless earlier suspended or revoked. Upon the expiration of the term stated on a certificate of registration, such certificate shall be null and void.

(d) Every holder of a certificate of registration must notify the commissioner of changes to any of the information stated on the certificate or of changes to any information contained in the application for the certificate of registration. Such notification must be made on or before the last day of the month in which a change occurs and must be made electronically on a form prescribed by the commissioner.

(e) Every holder of a certificate of registration under this article shall be required to reapply prior to such certificate's expiration, during a reapplication period established by the commissioner. Such reapplication period shall not occur more frequently than every two years. Such reapplication shall be subject to the same requirements and conditions, including grounds for refusal, as an initial application, including the payment of the application fee.

(f) Penalties. A person to whom adult-use cannabis products have been transferred or who sells adult-use cannabis products without a valid certificate of registration pursuant to subdivision (a) of this section shall be subject to a penalty of five hundred dollars for each month or part thereof during which such person continues to possess adult-use
3 cannabis_products_that_have_been_transferred_to_such_person_or_who_sells
4 such_products_after_the_expiration_of_the_first_month_after_which_such
5 person_operates_without_a_valid_certificate_of_registration_not_to
6 exceed_ten_thousand_dollars_in_the_aggregate.
7 § 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on
8 or_before_the_twentieth_date_of_the_month_file_with_the_commissioner_a
9 return_on_forms_to_be_prescribed_by_the_commissioner_showing_the_total
10 weight_of_cannabis_flower_and_cannabis_trim_subject_to_tax_pursuant_to
11 subdivision_(a)_of_section_four_hundred_ninety-three_of_this_article_and
12 the_total_amount_of_tax_due_thereon_in_the_preceding_calendar_month_and
13 the_total_amount_of_tax_due_under_subdivisions_(b)_and_(c)_of_such
14 section_on_its_sales_to_a_retail_dispensary_during_the_preceding_calendar
15 month_along_with_such_other_information_as_the_commissioner_may
16 require. Every_person_required_to_file_a_return_under_this_section
17 shall_at_the_time_of_filing_such_return_pay_to_the_commissioner_the
18 total_amount_of_tax_due_for_the_period_covered_by_such_return__If_a
19 return_is_notFiled_when_due_the_tax_shall_be_due_on_the_day_on_which
20 the_return_is_required_to_beFiled.
21 __The_wholesaler_shall_maintain_such_records_in_such_form_as_the
22 commissioner_may_require_regarding_such_items_as:_where_the_wholesaler
23 is_not_the_cultivator__the_weight_of_the_cannabis_flower_and_cannabis
24 trim_transferred_to_it_by_a_cultivator_or_where_the_wholesaler_is_the
25 cultivator__the_weight_of_such_flower_and_trim_produced_by_it__the
26 geographic_location_of_every_retail_dispensary_to_which_it_sold_adult-
27 use_cannabis_products_and_any_other_record_or_information_required_by
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1 the_commissioner__This_information_must_be_kept_by_such_person_for_a
2 period_of_three_years_after_the_return_wasFiled.
3 (b) The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

10 (c) 1. All taxes, interest, and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the cannabis revenue fund established by section ninety-nine-ff of the state finance law. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds. The commissioner is authorized and directed to deduct from the registration fees under subdivision (a) of section four hundred ninety-four of this article, before deposit into the cannabis revenue fund designated by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect, and distribute the taxes imposed by this article.

27 2. Notwithstanding the foregoing, the commissioner shall certify to the comptroller the total amount of tax, penalty and interest received by him or her on account of the tax imposed by subdivision (c) of
section four hundred ninety-three of this article in trust for and on account of each county in which a retail dispensary is located. On or before the twelfth day of each month, the comptroller, after reserving such refund fund, shall pay to the appropriate fiscal officer of each county the taxes, penalties and interest received and certified by the commissioner for the preceding calendar month.

§ 496. Returns to be kept secret. (a) Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the content or any other information related to the business of the wholesaler contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, the office of cannabis management, or the commissioner in an action or proceeding involving the collection of tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding.

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of adult-use cannabis products on behalf of officers to whom information
shall have been supplied as provided in this section, in any of which
events the courts may require the production of, and may admit in
evidence so much of said returns or reports or of the facts shown there-
by as are pertinent to the action or proceeding and no more. Nothing
herein shall be construed to prohibit the commissioner, in his or her
discretion, from allowing the inspection or delivery of a certified copy
of any return or report filed under this article or of any information
contained in any such return or report by or to a duly authorized offi-
cer or employee of the office of cannabis management or by or to the
attorney general or other legal representatives of the state when an
action shall have been recommended or commenced pursuant to this chapter
in which such returns or reports or the facts shown thereby are directly
involved: or the inspection of the returns or reports required under
this article by the comptroller or duly designated officer or employee
of the state department of audit and control, for purposes of the audit
of a refund of any tax paid by the wholesaler under this article; nor to
prohibit the delivery to such person or a duly authorized representative
of such person, a certified copy of any return or report filed by such
person pursuant to this article, nor to prohibit the publication of
statistics so classified as to prevent the identification of particular
returns or reports and the items thereof. This section shall also not be
construed to prohibit the disclosure, for tax administration purposes,
to the division of the budget and the office of the state comptroller,
of information aggregated from the returns filed by all wholesalers
purchasing and selling such products in the state, whether the number of
such persons is one or more. Provided further that, notwithstanding the
provisions of this subdivision, the commissioner may in his or her
1 discretion, permit the proper officer of any county entitled to receive
2 any distribution of the monies received on account of the tax imposed by
3 subdivision (c) of section four hundred ninety-three of this article, or
4 the authorized representative of such officer, to inspect any return
5 filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply
6 such officer or representative with information concerning an item
7 contained in any such return, or disclosed by any investigation of tax
8 liability under this article.
9 (b) The commissioner, in his or her discretion, may permit the appropriate officers of any other state that regulates or taxes cannabis or
10 the duly authorized representatives of such commissioner or of any such
11 officers, to inspect returns or reports made pursuant to this article,
12 or may furnish to the commissioner or other officer, or duly authorized
13 representatives, a copy of any such return or report or an abstract of
14 the information therein contained, or any portion thereof, or may supply
15 such commissioner or any such officers or such representatives with
16 information relating to the business of a wholesaler making returns or
17 reports hereunder solely for purposes of tax administration. The commissioner may refuse to supply information pursuant to this subdivision to
18 the officers of any other state if the statutes of the state represented
19 by such officers do not grant substantially similar privileges to the
20 commissioner, but such refusal shall not be mandatory. Information shall
21 not be supplied to the appropriate officers of any state that regulates
22 or taxes cannabis, or the duly authorized representatives of such
23 commissioner or of any such officers, unless such commissioner, officer,
24 or other representatives shall agree not to divulge or make known in any
28 manner__the_information_so_supplied,_but_such_officers_may_transmit_such
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1 information_to_their_employees_or_legal_representatives_when__necessary,
2 who__in__turn__shall_be_subject_to_the_same_restrictions_as_those_hereby
3 imposed_upon_such_commissioner,_officer_or_other_representatives.
4 (c)_1._Any_officer_or_employee_of_the_state_who_willfully_violates_the
5 provisions__of_subdivision_one_or_two_of_this_section_shall_be_dismissed
6 from_office_and_be_incapable_of_holding_any_public_office_in__the__state
7 for_a_period_of_five_years_thereafter.
8 2._For_criminal_penalties__see_article_thirty-seven_of_this_chapter.
9 § 38. Subdivision (a) of section 1115 of the tax law is amended by
10 adding a new paragraph 3-b to read as follows:
11 (3-b)_Adult-use_cannabis_products_as_defined_by__article__twenty-C__of
12 this_chapter.
13 § 39. Section 1825 of the tax law, as amended by section 3 of part NNN
14 of chapter 59 of the laws of 2018, is amended to read as follows:
15 § 1825. Violation of secrecy provisions of the tax law.--Any person
16 who violates the secrecy provisions of [subdivision (b) of section twen-
17 ty-one, subdivision one of section two hundred two, subdivision eight of
18 section two hundred eleven, subdivision (a) of section three hundred
19 fourteen, subdivision one or two of section four hundred thirty-seven,
20 section four hundred eighty-seven, subdivision one or two of section
21 five hundred fourteen, subsection (e) of section six hundred ninety-sev-
22 en, subsection (a) of section nine hundred ninety-four, subdivision (a)
23 of section eleven hundred forty-six, section twelve hundred eighty-sev-
24 en, section twelve hundred ninety-six, section twelve hundred ninety-
25 nine-F, subdivision (a) of section fourteen hundred eighteen, subdivi-
26 sion (a) of section fifteen hundred eighteen, subdivision (a) of section
fifteen hundred fifty-five of this chapter, [and] or subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

3 § 40. Section 12 of 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, is amended to read as follows:

7 § 12. This act shall take effect immediately [and]; provided, however, that sections one, three, five, six, seven-a, eight, nine, ten and eleven of this act shall expire and be deemed repealed seven years after such date; provided that the amendments to section 171-a of the tax law made by section seven of this act shall take effect on the same date and in the same manner as section 54 of part A of chapter 59 of the laws of 2014 takes effect and shall not expire and be deemed repealed; and provided, further, that the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section eleven of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.

18 § 41. The office of cannabis management, in consultation with the division of the budget, the department of taxation and finance, the department of health, office of alcoholism and substance abuse services, office of mental health, New York state police and the division of criminal justice services, shall conduct a study of the effectiveness of this act. Such study shall examine all aspects of this act, including economic and fiscal impacts, the impact on the public health and safety of New York residents and the progress made in achieving social justice goals and toward eliminating the illegal market for cannabis products in
27 New York. The office shall make recommendations regarding the appropriate level of taxation of adult-use cannabis, as well as changes, if any, necessary to improve and protect the public health and safety of New Yorkers. Such study shall be conducted two years after the effective date of this act and shall be presented to the governor, the majority leader of the senate and the speaker of the assembly, no later than October 1, 2022.

6 § 42. Section 102 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

8 8. No alcoholic beverage retail licensee shall sell cannabis, nor shall have or possess a license or permit to sell cannabis on the same premises where alcoholic beverages are sold.

11 § 43. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the general obligations law, as added by chapter 406 of the laws of 2000, are amended to read as follows:

14 1. "Illegal drug" means any controlled substance [or marijuana] the possession of which is an offense under the public health law or the penal law.

17 4. "Grade one violation" means possession of one-quarter ounce or more, but less than four ounces, or distribution of less than one ounce of an illegal drug [other than marijuana, or possession of one pound or twenty-five plants or more, but less than four pounds or fifty plants, or distribution of less than one pound of marijuana].

22 5. "Grade two violation" means possession of four ounces or more, but less than eight ounces, or distribution of one ounce or more, but less than two ounces, of an illegal drug [other than marijuana, or possession of four pounds or more or fifty plants or distribution of more than one ounce of marijuana].
26 pound but less than ten pounds of marijuana].
27 6. "Grade three violation" means possession of eight ounces or more, but less than sixteen ounces, or distribution of two ounces or more, but less than four ounces, of a specified illegal drug [or possession of eight pounds or more or seventy-five plants or more, but less than sixteen pounds or one hundred plants, or distribution of more than five pounds but less than ten pounds of marijuana].
28 7. "Grade four violation" means possession of sixteen ounces or more or distribution of four ounces or more of a specified illegal drug [or possession of sixteen pounds or more or one hundred plants or more or distribution of ten pounds or more of marijuana].
29 13. "Drug trafficker" means a person convicted of a class A or class B felony controlled substance [or marijuana offense] who, in connection with the criminal conduct for which he or she stands convicted, possessed, distributed, sold or conspired to sell a controlled substance [or marijuana] which, by virtue of its quantity, the person's prominent role in the enterprise responsible for the sale or distribution of such controlled substance and other circumstances related to such criminal conduct indicate that such person's criminal possession, sale or conspiracy to sell such substance was not an isolated occurrence and was part of an ongoing pattern of criminal activity from which such person derived substantial income or resources and in which such person played a leadership role.
30 § 44. Paragraph (g) of subdivision 1 of section 488 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, is amended to read as follows:
31 (g) "Unlawful use or administration of a controlled substance," which
25 shall mean any administration by a custodian to a service recipient of:
26 a controlled substance as defined by article thirty-three of the public
27 health law, without a prescription; or other medication not approved for
28 any use by the federal food and drug administration, except for the

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1 administration of medical cannabis when such administration is in
2 accordance with article three of the cannabis law and any regulations
3 promulgated thereunder as well as the rules, regulations, policies, or
4 procedures of the state oversight agency or agencies governing such
5 custodians. It also shall include a custodian unlawfully using or
6 distributing a controlled substance as defined by article thirty-three
7 of the public health law, at the workplace or while on duty.
8 § 45. Paragraphs (e) and (f) of subdivision 1 of section 490 of the
9 social services law, as added by section 1 of part B of chapter 501 of
10 the laws of 2012, are amended and a new paragraph (g) is added to read
11 as follows:
12 (e) information regarding individual reportable incidents, incident
13 patterns and trends, and patterns and trends in the reporting and
14 response to reportable incidents is shared, consistent with applicable
15 law, with the justice center, in the form and manner required by the
16 justice center and, for facilities or provider agencies that are not
17 state operated, with the applicable state oversight agency which shall
18 provide such information to the justice center; [and]
19 (f) incident review committees are established; provided, however,
20 that the regulations may authorize an exemption from this requirement,
21 when appropriate, based on the size of the facility or provider agency
22 or other relevant factors. Such committees shall be composed of members
23 of the governing body of the facility or provider agency and other
24 persons identified by the director of the facility or provider agency,
25 including some members of the following: direct support staff, licensed
26 health care practitioners, service recipients and representatives of
27 family, consumer and other advocacy organizations, but not the director
28 of the facility or provider agency. Such committee shall meet regularly
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1 to: (i) review the timeliness, thoroughness and appropriateness of the
2 facility or provider agency's responses to reportable incidents; (ii)
3 recommend additional opportunities for improvement to the director of
4 the facility or provider agency, if appropriate; (iii) review incident
5 trends and patterns concerning reportable incidents; and (iv) make
6 recommendations to the director of the facility or provider agency to
7 assist in reducing reportable incidents. Members of the committee shall
8 be trained in confidentiality laws and regulations, and shall comply
9 with section seventy-four of the public officers law[.]; and
10 (g) safe storage, administration, and diversion prevention policies
11 regarding controlled substances and medical marijuana.
12 § 46. Subdivision 1 of section 505 of the agriculture and markets law,
13 as added by chapter 524 of the laws of 2014, is amended to read as
14 follows:
15 1. "Industrial hemp" means the plant Cannabis sativa L. and any part
16 of such plant, including the seeds thereof and all derivatives,
17 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
18 whether growing or not, with a delta-9 tetrahydrocannabinol concen-
19 tration of not more than 0.3 percent on a dry weight basis.
20 § 47. Section 506 of the agriculture and markets law, as amended by
21 section 1 of part OO of chapter 58 of the laws of 2017, is amended to
22 read as follows:
§ 506. Growth, sale, distribution, transportation and processing of industrial hemp and products derived from such hemp permitted. [Notwithstanding any provision of law to the contrary, industrial hemp and products derived from such hemp may be grown, produced, possessed, sold, distributed, transported and/or processed in or out of state as part of agricultural pilot programs pursuant to authorization under federal law and the provisions of this article and/or the cannabis law. Notwithstanding any provision of law to the contrary restricting the growing or cultivating, sale, distribution, transportation or processing of industrial hemp and products derived from such hemp, and subject to authorization under federal law, the commissioner may authorize the growing or cultivating of industrial hemp as part of agricultural pilot programs conducted by the department and/or an institution of higher education to study the growth and cultivation, sale, distribution, transportation and processing of such hemp and products derived from such hemp provided that the sites and programs used for growing or cultivating industrial hemp are certified by, and registered with, the department. In addition to the department’s licensing authority hereinafter provided in this article, the office of cannabis management shall license and regulate the growth, extraction, processing and/or manufacturing of hemp for derivatives, extracts, cannabinoids, isomers, acids, salts and salts or isomers and/or hemp products for human or animal consumption or use (except for those food and/or food ingredients that are generally recognized as safe).]
22 4._Nothing_in_this_section_shall_limit_the_jurisdiction_of_the_depart-
ment_under_any_other_article_of_the_agriculture_and_markets_law.
24 § 48. Section 507 of the agriculture and markets law is REPEALED and a
25 new section 507 is added to read as follows:
26 § 507. Licensing; fees. 1. No person shall: (a) grow industrial hemp
27 in the state and/or sell or distribute industrial hemp grown in the
28 state unless licensed biennially by the commissioner or (b) grow, proc01/
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1 ess and/or produce industrial hemp and products derived from hemp in the
2 state or sell or distribute unless authorized by the commissioner as
3 part of an agricultural research pilot program established under this
4 article.
5 2. Application for a license to grow industrial hemp shall be made
6 upon a form prescribed by the commissioner, accompanied by a non-refund-
7 able application fee of five hundred dollars.
8 3. The applicant shall furnish evidence of his or her good character,
9 experience and competency, that the applicant has adequate facilities,
10 equipment, process controls, testing capability and security to grow
11 hemp.
12 4. Growers who intend to cultivate hemp for cannabinoids shall also be
13 required to obtain a license from the office of cannabis management.
14 5. A renewal application shall be submitted to the commissioner at
15 least thirty days prior to the commencement of the next license period.
16 § 49. Section 508 of the agriculture and markets law is REPEALED and a
17 new section 508 is added to read as follows:
18 § 508. Compliance action plan. If the commissioner determines, after
19 notice and an opportunity for hearing, that a licensee has negligently
20 violated a provision of this article, that licensee shall be required to
comply with a corrective action plan established by the commissioner to correct the violation by a reasonable date and to periodically report to the commissioner with respect to the licensee's compliance with this article for a period of no less than the next two calendar years following the commencement date of the compliance action plan. The provisions of this section shall not be applicable to research partners conducting hemp research pursuant to a research partner agreement, the terms of which shall control.

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§ 50. Section 509 of the agriculture and markets law is REPEALED and a new section 509 is added to read as follows:

§ 509. Granting, suspending or revoking licenses. The commissioner may decline to grant a new license, may decline to renew a license, may suspend or revoke a license already granted after due notice and opportunity for hearing whenever he or she finds that:

1. any statement contained in an application or for an applicant or licensee is or was false or misleading;

2. the applicant or licensee does not have good character, the required experience and/or competency, adequate facilities, equipment, process controls, testing capability and/or security to produce hemp or products derived from hemp;

3. the applicant or licensee has failed or refused to produce any records or provide any information demanded by the commissioner reasonably related to the administration and enforcement of this article; or

4. the applicant or licensee, or any officer, director, partner, holder of ten percent of the voting stock, or any other person exercising any position of management or control has failed to comply with any of the provisions of this article or rules and regulations promulgated
20 pursuant thereto.

21 § 51. Section 510 of the agriculture and markets law is REPEALED and a
22 new section 510 is added to read as follows:

23 § 510. Regulations. The commissioner may develop regulations consist-
24 ent with the provisions of this article for the growing and cultivation,
25 sale, distribution, and transportation of industrial hemp grown in the
26 state, including:

27 (a) the authorization or licensing of any person who may: acquire or
28 possess hemp plants or seeds; grow or cultivate hemp plants; and/or

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1 sell, purchase, distribute, or transport such plants, plant parts, or

2 seeds;

3 (b) maintaining relevant information regarding land on which indus-
4 trial hemp is produced within the state, including the legal description
5 of the land, for a period of not less than three calendar years;

6 (c) the procedure for testing of industrial hemp produced in the state
7 for delta-9 tetrahydrocannabinol levels, using post decarboxylation or
8 other similarly reliable methods;

9 (d) the procedure for effective disposal of industrial hemp plants or
10 products derived from hemp that are produced in violation of this arti-
11 cle;

12 (e) a procedure for conducting at least a random sample of industrial
13 hemp producers to verify that hemp is not produced in violation of this
14 article;

15 (f) any required security measures; and

16 (g) such other and further regulation as the commissioner deems appro-
17 priate or necessary.

18 § 52. Section 511 of the agriculture and markets law is REPEALED and a
19 new section 511 is added to read as follows:

20 §__511.__Prohibitions.____Except_as_authorized_by_state_law,_and_regu-
21 lations_promulgated_thereunder,_the__growth__cultivation__processing,
22 sale__and/or_distribution_of_industrial_hemp_is_prohibited.

23 § 53. Section 512 of the agriculture and markets law is REPEALED and a
24 new section 512 is added to read as follows:

25 §__512.__Industrial__hemp__data_collection_and_best_farming_practices.
26 The_commissioner_shall_have_the_power_to_collect_and__publish__data__and
27 research__concerning__among_other_things__the__growth__cultivation,_production__and__processing__methods__of__industrial__hemp__and__products
28 derived__from__industrial__hemp__and__work__with_the_cornell_cooperative
29 extension_to_promote_best_farming_practices_for__industrial__hemp__which
30 are__compatible__with_state_water_quality_and_other_environmental_objec-
31 tives.

5 § 54. Sections 513 and 514 of the agriculture and markets law are
6 REPEALED and a new section 513 is added to read as follows:

7 §_513._Access_to_criminal_history_information_through_the_division__of
8 criminal__justice__services.____In_connection_with_the_administration_of
9 this_article,_the_commissioner_is_authorized__to__request__receive_and
10 review__criminal__history__information__through_the_division_of_criminal
11 justice_services_(division)_with_respect_to_any_person_seeking_a_license
12 or__authorization_to_undertake_a_hemp_pilot_project._At__the__commission-
13 er's_request__each_researcher__principal_and/or_officer_of_the_applicant
14 shall__submit_to_the_department_his_or_her_fingerprints_in_such_form_and
15 in_such_manner_as_specified_by_the_division__for_the_purpose_of_conduct-
16 ing_a_criminal_history_search_and_returning_a_report_thereon_in__accord-
17 ance_with__the__procedures_and_requirements_established_by_the_division
pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the prescribed processing fees for the cost of the division's full search and retain procedures and a national criminal history record check. The commissioner, or his or her designee, shall submit such fingerprints and the processing fee to the division. The division shall forward to the commissioner a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division of criminal justice services pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check. If additional copies of fingerprints are required, the applicant shall furnish them upon request.

§ 55. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

§ 179.00 Criminal diversion of medical [marihuana] cannabis; definitions.

The following definitions are applicable to this article:


2. "Certification" means a certification, made under section thirty-one of the cannabis law.

§ 179.05 Criminal diversion of medical [marihuana] cannabis; limitations.

The following definitions are applicable to this article:


2. "Certification" means a certification, made under section thirty-one of the cannabis law.

§ 179.05 Criminal diversion of medical [marihuana] cannabis; limitations.
17 The provisions of this article shall not apply to:
18 1. a practitioner authorized to issue a certification who acted in
19 good faith in the lawful course of his or her profession; or
20 2. a registered organization as that term is defined in [subdivision
21 nine of section thirty-three hundred sixty of the public health law]
22 section__thirty-four__of_the_cannabis_law who acted in good faith in the
23 lawful course of the practice of pharmacy; or
24 3. a person who acted in good faith seeking treatment for a medical
25 condition or assisting another person to obtain treatment for a medical
26 condition.
27 § 179.10 Criminal diversion of medical [marihuana] cannabis in the first
28 degree.

A person is guilty of criminal diversion of medical [marihuana] canna-
2 bis in the first degree when he or she is a practitioner, as that term
3 is defined in [subdivision twelve of section thirty-three hundred sixty
4 of the public health law] section_three_of_the_cannabis_law, who issues
5 a certification with knowledge of reasonable grounds to know that (i)
6 the recipient has no medical need for it, or (ii) it is for a purpose
7 other than to treat a serious condition as defined in [subdivision seven
8 of section thirty-three hundred sixty of the public health law] section
9 three_of_the_cannabis_law.
10 Criminal diversion of medical [marihuana] cannabis in the first degree
11 is a class E felony.
12 § 179.11 Criminal diversion of medical [marihuana] cannabis in the
13 second degree.
14 A person is guilty of criminal diversion of medical [marihuana] canna-
15 bis in the second degree when he or she sells, trades, delivers, or
otherwise provides medical [marihuana] cannabis to another with know-
ledge or reasonable grounds to know that the recipient is not registered
under [title five-A of article thirty-three of the public health law]
article_three_of_the_cannabis_law.

Criminal diversion of medical [marihuana] cannabis in the second
degree is a class B misdemeanor.

§ 179.15 Criminal retention of medical [marihuana] cannabis.

A person is guilty of criminal retention of medical [marihuana] canna-
bis when, being a certified patient or designated caregiver, as those
terms are defined in [subdivisions three and five of section thirty-
hundred sixty of the public health law, respectively] section
three_of_the_cannabis_law, he or she knowingly obtains, possesses,
stores or maintains an amount of [marihuana] cannabis in excess of the
amount he or she is authorized to possess under the provisions of [title
two of article thirty-three of the public health law] article_three
of_the_cannabis_law.

Criminal retention of medical [marihuana] cannabis is a class A misde-
meanor.

§ 56. Section 220.78 of the penal law, as added by chapter 154 of the
laws of 2011, is amended to read as follows:

§ 220.78 Witness or victim of drug or alcohol overdose.

1. A person who, in good faith, seeks health care for someone who is
experiencing a drug or alcohol overdose or other life threatening
medical emergency shall not be charged or prosecuted for a controlled
substance offense under article two hundred twenty or a [marihuana]
cannabis offense under article two hundred twenty-one of this title,
other than an offense involving sale for consideration or other benefit
or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any controlled substance, marijuana cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

2. A person who is experiencing a drug or alcohol overdose or other life threatening medical emergency and, in good faith, seeks health care for himself or herself or is the subject of such a good faith request for health care, shall not be charged or prosecuted for a controlled substance offense under this article or a marijuana cannabis offense under article two hundred twenty-one of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any substance, marijuana cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

3. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Drug or alcohol overdose" or "overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which
the controlled substance or alcohol was combined; provided that a
patient's condition shall be deemed to be a drug or alcohol overdose if
a prudent layperson, possessing an average knowledge of medicine and
health, could reasonably believe that the condition is in fact a drug or
alcohol overdose and (except as to death) requires health care.
(b) "Health care" means the professional services provided to a person
experiencing a drug or alcohol overdose by a health care professional
licensed, registered or certified under title eight of the education law
or article thirty of the public health law who, acting within his or her
lawful scope of practice, may provide diagnosis, treatment or emergency
services for a person experiencing a drug or alcohol overdose.
4. It shall be an affirmative defense to a criminal sale controlled
substance offense under this article or a criminal sale of [marihuana]
cannabis offense under article two hundred twenty-one of this title, not
covered by subdivision one or two of this section, with respect to any
controlled substance or [marihuana] cannabis which was obtained as a
result of such seeking or receiving of health care, that:
(a) the defendant, in good faith, seeks health care for someone or for
him or herself who is experiencing a drug or alcohol overdose or other
life threatening medical emergency; and
(b) the defendant has no prior conviction for the commission or
attempted commission of a class A-I, A-II or B felony under this arti-
cle.
5. Nothing in this section shall be construed to bar the admissibility
of any evidence in connection with the investigation and prosecution of
a crime with regard to another defendant who does not independently
qualify for the bar to prosecution or for the affirmative defense; nor
13 with regard to other crimes committed by a person who otherwise quali-
14 fies under this section; nor shall anything in this section be construed
15 to bar any seizure pursuant to law, including but not limited to pursu-
16 ant to section thirty-three hundred eighty-seven of the public health
17 law.
18 6. The bar to prosecution described in subdivisions one and two of
19 this section shall not apply to the prosecution of a class A-I felony
20 under this article, and the affirmative defense described in subdivision
21 four of this section shall not apply to the prosecution of a class A-I
22 or A-II felony under this article.
23 § 57. Subdivision 1 of section 260.20 of the penal law, as amended by
24 chapter 362 of the laws of 1992, is amended as follows:
25 1. He knowingly permits a child less than eighteen years old to enter
26 or remain in or upon a place, premises or establishment where sexual
27 activity as defined by article one hundred thirty, two hundred thirty or
28 two hundred sixty-three of this [chapter] part or activity involving
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1 controlled substances as defined by article two hundred twenty of this
2 [chapter or involving marihuana as defined by article two hundred twen-
3 ty-one of this chapter] part is maintained or conducted, and he knows or
4 has reason to know that such activity is being maintained or conducted;
5 or
6 § 58. Section 89-h of the state finance law, as added by chapter 90 of
7 the laws of 2014, is amended to read as follows:
8 § 89-h. Medical [marihuana] cannabis trust fund. 1. There is hereby
9 established in the joint custody of the state comptroller and the
10 commissioner of taxation and finance a special fund to be known as the
11 "medical [marihuana] cannabis trust fund."
2. The medical [marihuana] cannabis trust fund shall consist of all moneys required to be deposited in the medical [marihuana] cannabis trust fund pursuant to the provisions of section four hundred ninety of the tax law.

3. The moneys in the medical [marihuana] cannabis trust fund shall be kept separate and shall not be commingled with any other moneys in the custody of the commissioner of taxation and finance and the state comptroller.

4. The moneys of the medical [marihuana] cannabis trust fund, following appropriation by the legislature, shall be allocated upon a certificate of approval of availability by the director of the budget as follows: (a) Twenty-two and five-tenths percent of the monies shall be transferred to the counties in New York state in which the medical [marihuana] cannabis was manufactured and allocated in proportion to the gross sales originating from medical [marihuana] cannabis manufactured in each such county; (b) twenty-two and five-tenths percent of the moneys shall be transferred to the counties in New York state in which the medical [marihuana] cannabis was dispensed and allocated in proportion to the gross sales occurring in each such county; (c) five percent of the monies shall be transferred to the office of alcoholism and substance abuse services, which shall use that revenue for additional drug abuse prevention, counseling and treatment services; and (d) five percent of the revenue received by the department shall be transferred to the division of criminal justice services, which shall use that revenue for a program of discretionary grants to state and local law enforcement agencies that demonstrate a need relating to [title five-A of article thirty-three of the public health law] article_three_of_the...
cannabis law; said grants could be used for personnel costs of state and
local law enforcement agencies. For purposes of this subdivision, the
city of New York shall be deemed to be a county.

§ 59. Intentionally omitted.

§ 60. The state finance law is amended by adding a new section 99-ff
to read as follows:

§ 99-ff. New York state cannabis revenue fund. 1. There is hereby
established in the joint custody of the state comptroller and the
commissioner of taxation and finance a special fund to be known as the
"New York state cannabis revenue fund" (the "fund").

2. Monies in the fund shall be kept separate from and shall not be
commingled with any other monies in the custody of the comptroller or
the commissioner of taxation and finance. Provided, however that any
monies of the fund not required for immediate use may, at the discretion
of the comptroller, in consultation with the director of the budget, be
invested by the comptroller in obligations of the United States or the
state. The proceeds of any such investment shall be retained by the fund
as assets to be used for purposes of the fund.

§ 61. Except as set forth in subdivisions two and four of this section,
monies from the fund shall not be used to make payments for any purpose
other than the purposes set forth in subdivisions two and four of this
section.

The "New York state cannabis revenue fund" shall consist of monies
received by the commissioner of taxation and finance pursuant to subdivisions (a) and (b) of section four hundred ninety-three of the tax law
and all other monies credited or transferred thereto from any other fund
or source. Monies of such fund shall be expended for the following

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10 purposes: administration of the regulated cannabis program, data gathering, monitoring and reporting, the governor's traffic safety committee, small business development and loans, substance abuse, harm reduction and mental health treatment and prevention, public health education and intervention, research on cannabis uses and applications, program evaluation and improvements, and any other identified purpose recommended by the executive director of the office of cannabis management and approved by the director of the budget.

§ 61. Subdivision 2 of section 3371 of the public health law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

2. The prescription monitoring program registry may be accessed, under such terms and conditions as are established by the department for purposes of maintaining the security and confidentiality of the information contained in the registry, by:

(a) a practitioner, or a designee authorized by such practitioner pursuant to paragraph (b) of subdivision two of section thirty-three hundred forty-three-a or section thirty-three hundred sixty-one of this article, for the purposes of: (i) informing the practitioner that a patient may be under treatment with a controlled substance by another practitioner; (ii) providing the practitioner with notifications of controlled substance activity as deemed relevant by the department, including but not limited to a notification made available on a monthly or other periodic basis through the registry of controlled substances activity pertaining to his or her patient; (iii) allowing the practitioner, through consultation of the prescription monitoring program registry, to review his or her patient's controlled substances history.
9 as required by section thirty-three hundred forty-three-a [or section
10 thirty-three hundred sixty-one] of this article; and (iv) providing to
11 his or her patient, or person authorized pursuant to paragraph (j) of
12 subdivision one of this section, upon request, a copy of such patient’s
13 controlled substance history as is available to the practitioner through
14 the prescription monitoring program registry; or
15 (b) a pharmacist, pharmacy intern or other designee authorized by the
16 pharmacist pursuant to paragraph (b) of subdivision three of section
17 thirty-three hundred forty-three-a of this article, for the purposes of:
18 (i) consulting the prescription monitoring program registry to review
19 the controlled substances history of an individual for whom one or more
20 prescriptions for controlled substances or certifications for marihuana
21 is presented to the pharmacist, pursuant to section thirty-three hundred
22 forty-three-a of this article; and (ii) receiving from the department
23 such notifications of controlled substance activity as are made avail-
24 able by the department; or
25 (c) an individual employed by a registered organization for the
26 purpose of consulting the prescription monitoring program registry to
27 review the controlled substances history of an individual for whom one
28 or more certifications for [marihuana] cannabis is presented to that
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1 registered organization[, pursuant to section thirty-three hundred
2 sixty-four of this article]. Unless otherwise authorized by this arti-
3 cle, an individual employed by a registered organization will be
4 provided access to the prescription monitoring program in the sole
5 discretion of the commissioner.
6 § 62. Subdivision 3 of section 853 of the general business law, as
7 added by chapter 90 of the laws of 2014, is amended to read as follows:
§ 3. This article shall not apply to any sale, furnishing or possession
which is for a lawful purpose under [title five-A of article thirty-
three of the public health law] the_cannabis_law.

§ 63. Subdivision 5 of section 410.91 of the criminal procedure law,
as amended by chapter 90 of the laws of 2014, is amended to read as
follows:

5. For the purposes of this section, a "specified offense" is an
offense defined by any of the following provisions of the penal law:
burglary in the third degree as defined in section 140.20, criminal
mischief in the third degree as defined in section 145.05, criminal
mischief in the second degree as defined in section 145.10, grand lar-
ceny in the fourth degree as defined in subdivision one, two, three, four,
five, six, eight, nine or ten of section 155.30, grand larceny in the
third degree as defined in section 155.35 (except where the property
consists of one or more firearms, rifles or shotguns), unauthorized use
of a vehicle in the second degree as defined in section 165.06, criminal
possession of stolen property in the fourth degree as defined in subdi-
vision one, two, three, five or six of section 165.45, criminal
possession of stolen property in the third degree as defined in section
165.50 (except where the property consists of one or more firearms,
rifles or shotguns), forgery in the second degree as defined in section
170.10, criminal possession of a forged instrument in the second degree
as defined in section 170.25, unlawfully using slugs in the first degree
as defined in section 170.60, criminal diversion of medical [marihuana]
cannabis in the first degree as defined in section 179.10 or an attempt
to commit any of the aforementioned offenses if such attempt constitutes
a felony offense; or a class B felony offense defined in article two
7 hundred twenty where a sentence is imposed pursuant to paragraph (a) of
8 subdivision two of section 70.70 of the penal law; or any class C, class
9 D or class E controlled substance [or marihuana] cannabis felony offense
10 as defined in article two hundred twenty or two hundred twenty-one.
11 § 63-a. Subdivision 5 of section 410.91 of the criminal procedure law,
12 as amended by section 8 of part AAA of chapter 56 of the laws of 2009,
13 is amended to read as follows:
14 5. For the purposes of this section, a "specified offense" is an
15 offense defined by any of the following provisions of the penal law:
16 burglary in the third degree as defined in section 140.20, criminal
17 mischief in the third degree as defined in section 145.05, criminal
18 mischief in the second degree as defined in section 145.10, grand larceny in the
19 fourth degree as defined in subdivision one, two, three, four,
20 five, six, eight, nine or ten of section 155.30, grand larceny in the
21 third degree as defined in section 155.35 (except where the property
22 consists of one or more firearms, rifles or shotguns), unauthorized use
23 of a vehicle in the second degree as defined in section 165.06, criminal
24 possession of stolen property in the fourth degree as defined in subdi-
25 vision one, two, three, five or six of section 165.45, criminal
26 possession of stolen property in the third degree as defined in section
27 165.50 (except where the property consists of one or more firearms,
28 rifles or shotguns), forgery in the second degree as defined in section
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1 170.10, criminal possession of a forged instrument in the second degree
2 as defined in section 170.25, unlawfully using slugs in the first degree
3 as defined in section 170.60, or an attempt to commit any of the afore-
4 mentioned offenses if such attempt constitutes a felony offense; or a
5 class B felony offense defined in article two hundred twenty where a
6 sentence is imposed pursuant to paragraph (a) of subdivision two of
7 section 70.70 of the penal law; or any class C, class D or class E
8 controlled substance or [marihuana] cannabis felony offense as defined
9 in article two hundred twenty or two hundred twenty-one.
10 § 64. This act shall take effect immediately; provided, however that
11 sections thirty-seven and thirty-eight of this act shall take effect on
12 April 1, 2020, and shall apply on and after such date: (a) to the culti-
13 vation of cannabis flower and cannabis trim transferred by a cultivator
14 who is not a wholesaler; (b) to the cultivation of cannabis flower and
15 cannabis trim sold or transferred to a retail dispensary by a cultivator
16 who is a wholesaler; and (c) to the sale or transfer of adult use canna-
17 bis products to a retail dispensary; provided, further, that the amend-
18 ments to article 179 of the penal law made by section fifty-five of this
19 act shall not affect the repeal of such article and shall be deemed to
20 be repealed therewith; provided further, that the amendments to section
21 89-h of the state finance law made by section fifty-eight of this act
22 shall not affect the repeal of such section and shall be deemed repealed
23 therewith; provided further, that the amendments to section 221.00 of
24 the penal law made by section fifteen of this act shall be subject to
25 the expiration of such section when upon such date the provisions of
26 section fifteen-a of this act shall take effect; provided, however, that
27 the amendments to subdivision 2 of section 3371 of the public health law
28 made by section sixty-one of this act shall not affect the expiration of
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1 such subdivision and shall be deemed to expire therewith; provided
2 further, that the amendments to subdivision 3 of section 853 of the
3 general business law made by section sixty-two of this act shall not
4 affect the repeal of such subdivision and shall be deemed to be repealed
5 therewith; and provided further, that the amendments to subdivision 5 of
6 section 410.91 of the penal law made by section sixty-three of this act
7 shall be subject to the expiration and reversion of such subdivision
8 when upon such date the provisions of section sixty-three-a of this act
9 shall take effect.
S1527 - DETAILS

See Assembly Version of this Bill:

A1617

Current Committee:

Senate Finance

Law Section:

 Appropriations

Laws Affected:

Amd Various Laws, generally

Versions Introduced in Other Legislative Sessions:

2013-2014: S6005, A8341
2015-2016: S1747, A3089
2017-2018: S3040, A3506

S1527 - SUMMARY

Enacts the "marihuana regulation and taxation act"; relates to the description of marihuana, and the growing of and use of marihuana by persons twenty-one years of age or older; makes technical changes regarding the definition of marihuana; relates to removing certain references to marihuana relating to forfeiture actions; relates to the qualification of certain offenses involving marihuana and exempts certain persons from prosecution for the use, consumption, display, production or distribution of marihuana; relates to the definition of smoking; provides for the licensure of persons authorized to produce, process and sell marihuana; levies an excise tax on certain sales of marihuana; repeals certain provisions of the penal law relating to the criminal sale of marihuana and provisions of the general business law relating to drug
paraphernalia; creates the New York state marihuana revenue fund, the New York state drug treatment public education fund, the New York state community grants reinvestment fund, and the marihuana microbusiness and marihuana license revolving loan fund; makes an appropriation therefor.

S1527 - SPONSOR MEMO

BILL NUMBER: S1527

SPONSOR: KRUEGER

TITLE OF BILL:

An act to amend the public health law, in relation to the description of marihuana, and the growing of and use of marihuana by persons twenty-one years of age or older; to amend the civil practice law and rules, in relation to removing certain references to marihuana relating to forfeiture actions; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of marihuana; to amend the penal law, in relation to the qualification of certain offenses involving marihuana and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of marihuana; to amend the public health law in relation to the definition of smoking; to amend the alcoholic beverage control law, in relation to providing for the licensure of persons authorized to produce, process and sell marihuana; to amend the state finance law, in relation to establishing the New York state marihuana revenue fund, the New York state drug treatment education fund and the New York state community grants reinvestment fund; to amend the tax law, in relation to providing for the levying of an excise tax on certain sales of marihuana; 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 vehicle and traffic law, and the family court act in relation to making conforming changes; to amend the alcoholic beverage control law, in relation to alcohol or substance use disorder training awareness programs; to amend the state finance law, in relation to a revolving loan fund; to repeal sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 and 221.40 of the penal law relating to the criminal law.
possession and sale of marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal section 150.75 of the criminal procedure law relating to appearance tickets for certain marihuana offenses; and making an appropriation therefor

PURPOSE OR GENERAL IDEA OF BILL:

The purpose of this bill is to establish a regulated and taxed marijuana industry in New York, and to provide for various social and economic justice initiatives related thereto.

SUMMARY OF PROVISIONS:

Section one of the bill is the title.

Section two of the bill is comprised of legislative findings and statements of purpose.

Section three of the bill amends section 3302 of the Public Health Law to eliminate the definitions of Concentrated Cannabis and Marihuana from the controlled substances act.

Section four of the bill amends section 3306 of the Public Health Law to remove the classification of marihuana as a schedule 1 hallucinogen on the schedules of controlled substances.

Section five of the bill amends section 3382 of the Public Health Law to allow home cultivation of up to 6 marihuana plants by individuals twenty-one years or older.

Section six of the bill amends section 1311 of the Civil Practice Law and Rules to exclude marihuana possession as grounds for a currency forfeiture action.

Section seven of the bill amends section 3397-b of the public health law to make conforming changes in definition of marihuana.

Section eight of the bill amends section 114a of the Vehicle and Traffic Law adding marihuana and concentrated cannabis to the definition of drug for purposes of driving under the influence.
Section nine of the bill amends section 220.0 of the Penal Law to update the definition of marihuana and include a definition for concentrated cannabis as a controlled substance.

Sections ten to twelve of the bill update cross references to amended sections of the penal law.

Section thirteen of the bill amends section 220.50 of the Penal Law to exclude marihuana paraphernalia from criminal use of drug paraphernalia.

Section fourteen of the bill repeals sections 221.05, 221.10, 221.15.221. 20, 221.25, 221.30 and 221.40 related to illegal possession and sale of marihuana.

Section fifteen of the bill adds new section 221.05 and 221.05-a to the Penal Law to establish conditions for legal personal use and cultivation of marihuana and penalties for violations of those conditions.

Section sixteen of the bill amends section 221.45 of the Penal Law to define unlicensed sale of marihuana in the third degree.

Section seventeen of the bill amends section 221.50 of the Penal Law to define unlicensed sale of marihuana in the second degree.

Section eighteen of the bill amends section 221.55 of the Penal Law, to define unlicensed sale of marihuana in the first degrees.

Section nineteen of the bill adds a new section 221.60 to the Penal Law establishing that those acting in compliance with the Alcohol BeverageControl Law are exempt from sections § 220 and § 221 of the New York Penal Law.

Section twenty of the bill amends subdivision 8 of section 1399-n of the Public Health Law to include marihuana in list of substances subject to smoking regulations.

Section twenty-one of the bill amends section 2 of the Alcoholic Beverage Control Law to include regulation of marihuana products in the purpose of this chapter.

Section twenty-two of the bill amends section 3 of the Alcoholic Beverage Control Law to include definitions of Concentrated Cannabis, Marihuana, and Marihuana consumers, processors,
producer, products, infused products, retailer and retailer for on-premises consumption, and unreasonably impracticable.

Section twenty-three of the bill amends section 65-b of the Alcoholic Beverage Control law to ban use of fraudulent documents for the purpose of purchasing marihuana products by persons under twenty-one years of age, and establishing procedures for sellers of marihuana products to prevent such sales.

Section twenty-four of the bill amends section 65-c of the Alcoholic Beverage Control law to make possession of marihuana by those under twenty-one unlawful, and to establish penalties and requirements for completion of a drug awareness program for those who violate this section.

Section twenty-five of the bill adds a new section 65-e to the Alcoholic Beverage Control law establishing restrictions for personal use of marihuana, including smoking in public or where smoking tobacco is banned, possessing, smoking or ingesting on school grounds, and smoking or ingesting while operating a motor vehicle, and establishing penalties for violations of this section.

Section twenty-six of the bill amends section 140 of the Alcoholic Beverage Control Law to extend the option of any town or city to ban sale of alcoholic beverages to sales of marihuana.

Section twenty-seven of the bill amends section 141 of the Alcoholic Beverage Control Law to apply the rules governing referendum procedures for banning sales of alcohol by towns to sales of marihuana.

Section twenty-eight of the bill amends section 142 of the Alcoholic Beverage Control Law to establish that sale of marihuana is prohibited in any city that passes a referendum against such sales.

Section twenty-nine of the bill amends section 147 of the Alcoholic Beverage Control Law to establish that if the rules regarding future referendums will also apply to marihuana sales.

Section thirty of the bill renumbers article 11 of the Alcoholic Beverage Control Law as article 12 and sections 160, 161, 162, 163 and 164 as sections 200, 201, 202, 203 and 204.
Section thirty-one of the bill adds a new Article 11 to the Alcoholic Beverage Control Law providing establishment of a bureau of marihuana policy to provide for the regulation of marihuana production, processing, testing, distribution and sale within the State Liquor Authority, establishing licensing and permitting rules, and providing for penalties for violations.

Section thirty-two of the bill adds new sections 99-ff, 99-gg, and 99-hh to the State Finance law establishing the marihuana revenue fund, the drug treatment public education fund, and the community grants reinvestment funds. These funds will distribute revenue generated by this legislation for administrative costs, data tracking and reporting, program evaluation, public education, drug treatment and health education, and grants to support community-based programs providing services including job placement, job skills, adult education, mental health, legal services addressing barriers to reentry, women's health and other community-based supportive services in communities disproportionately affected by past federal and state drug policies.

Section thirty-three of the bill adds a new Article 18-A to the New York Tax Code imposing an excise tax on marihuana and concentrated cannabis, and establishing a formula for distribution of the proceeds of this tax. Proceeds from the tax will be placed in a fund established by the comptroller known as the marihuana revenue fund. Localities would also be authorized to impose a sales tax of up to two percent on retail sales.

Section thirty-four of the bill amends subdivision 3 of section 160.50 of the criminal procedure law to update references to clearing of records in criminal actions terminated in favor of the accused.

Section thirty-five of the bill amends subdivision 4 of section 160.50 of the criminal procedure law to update references to provide for persons to apply for sealing of records.

Section thirty-six of the bill amends section 170.56 of the criminal procedure law providing for suspension of court proceedings and adjournment in contemplation of dismissal for exceptional circumstances in marihuana related violations.

Section thirty-seven of the bill updates cross references in section 210.46 of the criminal procedure law.
Section thirty-eight of the bill amends section 440.10 of the criminal procedure law to provide for vacating convictions based on marihuana possession in cases where the offense would no longer be a crime under this act.

Section thirty-nine of the bill amends section 440.10 of the criminal procedure law to update cross references.

Section forty of the bill adds a new section 440.46-a providing for motions to resentence persons convicted of marihuana offenses under penal laws prior to the passage of this legislation.

Section forty-one through forty-three of the bill of the bill update cross references to amended sections of the criminal procedure law, civil practice law and rules, and general business law.

Section forty-four of the bill repeals paragraph f of subdivision 2 of section 850 of the general business law.

Section forty-five of the bill amends section 850 of the general business law to remove references to marihuana and hashish paraphernalia.

Section forty-six of the bill updates cross references in the state finance law to amended sections in the alcoholic beverage control law.

Section forty-seven through forty-nine of the bill update definitions and cross references in the executive law, penal law, and vehicle and traffic law.

Section fifty of the bill updates section 1194 of the vehicle and traffic law to specify testing limits for marihuana content.

Section fifty-one through fifty-four of the bill amends the alcoholic beverage control law to include the development of substance use disorder training awareness programs within the powers of the authority.

Section fifty-five of the bill repeals section 150.75 of the criminal procedure law.

Section fifty-six of the bill updates cross references in the family court act.
Section fifty-seven of the bill adds a new section 99-ii to the state finance law to establish a marihuana microbusiness and marihuana license revolving loan fund.

Section fifty-eight of the bill provides for an appropriation of five million dollars to the State Liquor Authority for implementation of this act.

Section fifty-nine of the bill is a severability clause. Section sixty of the bill is the effective date.

DIFFERENCE BETWEEN ORIGINAL AND AMENDED VERSION:

The amended version of the bill provides technical amendments, clarifies that personal cultivation cannot be banned by local jurisdictions, clarifies that regulating/prohibiting marijuana retail licenses at the local level is vested with cities, towns, and villages, provides robust public outreach and education on license opportunities and other applicable regulations, provides maintenance of efforts related to state education funding, provides a more robust social equity plan that prioritizes licenses for small minority and women owned businesses, provides labor peace requirements for businesses with more than 25 employees, and establishes a revolving loan fund to assist license applicants obtain necessary capital, with a priority to give loans to small, minority, and women owned businesses.

JUSTIFICATION:

New York's marihuana policies are broken, unjust, and outdated. The Marihuana Regulation and Taxation Act (MRTA) is based on the recognition that New York's existing marihuana policies have failed to protect the welfare of our communities. Marihuana prohibition has thrust thousands of New Yorkers into the criminal justice system for non-violent offenses, inhibiting an otherwise law-abiding citizen's ability to access housing, student loans, employment opportunities, voting, and other vital services. Additionally, rather than curtailing youth-marihuana usage, existing marihuana laws have led to an illicit market that has done little to address marihuana usage by minors.

Existing marihuana laws have led to profligate spending of law enforcement resources, and discriminatory police practices that
have perpetuated systematic racism and discrimination increasing the prison population with non-violent offenders. Over the past two decades, New York has become the marihuana arrest capital of the country, with nearly 800,000 marihuana arrests and summons.

These arrests disproportionately impact the lives of African-American and Latino communities. African-Americans and Latinos are swept into the criminal justice system for marihuana use, while whites are afforded impunity due to the color of their skin. While government studies show that whites of all ages use marihuana at the same rate as people of color, a stark difference in arrest rates remain. Across New York City, African-Americans are arrested on low-level marihuana charges at eight times the rate of white, non-hispanic people and Hispanics are arrested at five times the rate of whites. One of the largest drivers of racial disparity in criminalization and incarceration rates is the inequity of how the law is applied in marihuana arrests.

The intent of this act is to regulate, control, and tax marihuana in a manner similar to alcohol. The MRTA will generate millions of dollars in new revenue, prevent access to marihuana by those under the age of twenty-one, reduce the illegal drug market and violent crime, reduce participation of otherwise law-abiding citizens in an illicit market and create new industries and increase employment. With the enactment of the MRTA the New York State Legislature has an opportunity to end the racially disparate impact of existing marihuana policies.

Sixty million Americans now live in states where adult-marihuana is legal. Nationwide, public perception of marihuana is growing more favorable, with 61% of the population supporting legalization. In NYC fatal drug overdoses are now four times more common than homicides. The New York Department of Health concluded that marihuana is a far safer pain reliever than opioids, and reduces the risk of fatal overdoses that are prevalent across the state and country. In states that have legalized marihuana, opioid overdose rates were 25% lower compared with states with no legal access to marihuana. Additionally, two-thirds of Americans also view marihuana as being safer than opioids in the management of pain.

There are roughly 1.5 million regular marihuana users in New York, half of which live in New York City. In May of 2018, NYC Comptroller Stringer released a report which estimates a $3.1 billion adult-use marihuana market for New York State, with $1.1 billion just in New York City. With the enactment of the MRTA
New York State could realize a projected $436 million in tax revenue, while New York City could accrue an additional $336 million in tax revenue.

This legislation directs 50% of the tax revenue to establish the Community Grants Reinvestment Fund, aimed at giving back to the communities that have been the most disproportionately affected by current marihuana laws. States across the country that have recently legalized marihuana, from Massachusetts to Alaska, are reinvesting in programs that offer people a new start through community re-entry programs, schools, job development, drug treatment, and legal services.

PRIOR LEGISLATIVE HISTORY:

2017-2018: S.3040C – Health/A.3506C Peoples-Stokes Codes
2015-2016: S.1747 – Health/A.3089A Peoples-Stokes Codes
2013-2014: S.6005 – Health/A.8341 Peoples-Stokes Codes

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

Increase revenue for state and local governments. Fiscal implication assumptions for similar legislation implemented in Colorado, Amendment 64, estimated an annual revenue increase of 5-22 million dollars and an annual spending increase of .5-1.5 million dollars. Given the larger population of New York State this legislation should generate revenue substantially larger than these estimates.

EFFECTIVE DATE:
Immediately.
AN ACT to amend the public health law, in relation to the description of marihuana, and the growing of and use of marihuana by persons twenty-one years of age or older; to amend the civil practice law and rules, in relation to removing certain references to marihuana relating to forfeiture actions; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of marihuana; to amend the penal law, in relation to the qualification of certain offenses involving marihuana and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of marihuana; to amend the public health law in relation to the definition of smoking; to amend the alcoholic beverage control law, in relation to providing for the licensure of persons authorized to produce, process and sell marihuana; to amend the state finance law, in relation to establishing the New York state marihuana revenue fund, the New York state drug treatment education fund and the New York state community grants reinvestment fund; to amend the tax law, in relation to providing for the levy of an excise tax on certain sales of marihuana; 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 vehicle and traffic law, and the family court act in relation to making conforming changes; to amend the alcoholic beverage control law, in relation to alcohol or substance use disorder training awareness programs; to amend the state finance law, in relation to a revolving loan fund; to repeal sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 and 221.40 of the penal law relating to the criminal possession and sale of marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal section 150.75 of the criminal procedure law relating to appearance.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.
tickets for certain marihuana offenses; and making an appropriation therefor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

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

The intent of this act is to regulate, control, and tax marihuana in a manner similar to alcohol, generate millions of dollars in new revenue, prevent access to marihuana by those under the age of twenty-one years, reduce the illegal drug market and reduce violent crime, reduce participation of otherwise law-abiding citizens in the illicit market, end the racially disparate impact of existing marihuana laws and create new industries and increase employment.

Nothing in this act is intended to limit the authority of any district government agency or office or employers to enact and enforce policies pertaining to marihuana in the workplace, to allow driving under the influence of marihuana, to allow individuals to engage in conduct that endangers others, to allow smoking marihuana in any location where smoking tobacco is prohibited, or to require any individual to engage in any conduct that violates federal law or to exempt anyone from any requirement of federal law or pose any obstacle to the federal enforcement of federal law.

Nothing in this act is intended to limit any privileges or rights of a medical marihuana patient or medical marihuana caregiver under the New York Compassionate Care Act.

It is the intent of this act that no child shall be the subject of a child neglect or abuse investigation or proceeding based solely on a parent's alleged use of marihuana. A newborn child's positive toxicology result for marihuana, is not sufficient on its own to support a finding of child neglect or abuse. Enactment of this act shall provide sufficient basis for New York state to favorably resolve open investigations and to amend and seal individuals' family court records and records of indicated child abuse or neglect reports currently in the statewide central register of child abuse and maltreatment based solely on the use of marihuana or where the reporter of suspected abuse or neglect was a law enforcement agency or staff person and the report was based solely upon the presence of a child during a marihuana-related arrest.

§ 3. Section 3302 of the public health law, as added by chapter 878 of the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998, subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39
1 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of
2 subdivision 20, the opening paragraph of subdivision 22 and subdivision
3 as amended by chapter 163 of the laws of 1973, subdivision 31 as
4 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-
5 vision 41 as added by section 6 of part A of chapter 447 of the laws of
6 2012, and subdivisions 42 and 43 as added by section 13 of part D of
7 chapter 60 of the laws of 2014, is amended to read as follows:
8 § 3302. Definitions of terms of general use in this article. Except
9 where different meanings are expressly specified in subsequent
10 provisions of this article, the following terms have the following mean-
11 ings:
12 1. "Addict" means a person who habitually uses a controlled substance
13 for a non-legitimate or unlawful use, and who by reason of such use is
14 dependent thereon.
15 2. "Administer" means the direct application of a controlled
16 substance, whether by injection, inhalation, ingestion, or any other
17 means, to the body of a patient or research subject.
18 3. "Agent" means an authorized person who acts on behalf of or at the
19 direction of a manufacturer, distributor, or dispenser. No person may be
20 authorized to so act if under title VIII of the education law such
21 person would not be permitted to engage in such conduct. It does not
22 include a common or contract carrier, public warehouseman, or employee
23 of the carrier or warehouseman when acting in the usual and lawful
24 course of the carrier's or warehouseman's business.
25 4. ["Concentrated Cannabis" means
26 (a) the separated resin, whether crude or purified, obtained from a
27 plant of the genus Cannabis; or
28 (b) a material, preparation, mixture, compound or other substance
29 which contains more than two and one-half percent by weight of delta-9
30 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering
31 system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) mono-
32 terpene numbering system.
33 5.] "Controlled substance" means a substance or substances listed in
34 section thirty-three hundred six of this [chapter] TITLE.
35 6. "Commissioner" means commissioner of health of the state of
36 New York.
37 7. "Deliver" or "delivery" means the actual, constructive or
38 attempted transfer from one person to another of a controlled substance,
39 whether or not there is an agency relationship.
40 8. "Department" means the department of health of the state of
41 New York.
42 9. "Dispense" means to deliver a controlled substance to an ulti-
43 mate user or research subject by lawful means, including by means of the
44 internet, and includes the packaging, labeling, or compounding necessary
45 to prepare the substance for such delivery.
46 10. "Distribute" means to deliver a controlled substance, includ-
47 ing by means of the internet, other than by administering or dispensing.
48 11. "Distributor" means a person who distributes a controlled
49 substance.
50 12. "Diversion" means manufacture, possession, delivery or use
51 of a controlled substance by a person or in a manner not specifically
52 authorized by law.
53 13. "Drug" means
54 (a) substances recognized as drugs in the official United States Phar-
55 macopoeia, official Homeopathic Pharmacopoeia of the United States, or
56 official National Formulary, or any supplement to any of them;
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1. (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; and

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

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


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

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

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

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

[20.] 19. "Manufacture" means the production, preparation, propagation, compounding, cultivation, conversion or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of a controlled substance:

(a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

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

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

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

[22.] 20. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable
origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in [subdivision] PARAGRAPH (a) OF THIS SUBDIVISION, but not including the isoquinoline alkaloids of opium;

(c) opium poppy and poppy straw.

[23.] 21. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section [3306] THIRTY-THREE HUNDRED SIX of this [article] TITLE, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.


[25.] 23. "Person" means individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

[26.] 24. "Pharmacist" means any person licensed by the state department of education to practice pharmacy.

[27.] 25. "Pharmacy" means any place registered as such by the New York state board of pharmacy and registered with the Federal agency pursuant to the federal controlled substances act.

[28.] 26. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

[29.] 27. "Practitioner" means:

A physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" only as to such substances, or conduct relating to such substances, as is permitted by his license, permit or otherwise permitted by law.

[30.] 28. "Prescribe" means a direction or authorization, by prescription, permitting an ultimate user lawfully to obtain controlled substances from any person authorized by law to dispense such substances.

[31.] 29. "Prescription" shall mean an official New York state prescription, an electronic prescription, an oral prescription[, OR an out-of-state prescription[, or any one].

[32.] 30. "Sell" means to sell, exchange, give or dispose of to another, or offer or agree to do the same.

[33.] 31. "Ultimate user" means a person who lawfully obtains and possesses a controlled substance for his own use or the use by a member of his household or for an animal owned by him or in his custody. It shall also mean and include a person designated, by a practitioner on a prescription, to obtain such substance on behalf of the patient for whom such substance is intended.

[34.] 32. "Internet" means collectively computer and telecommunications facilities which comprise the worldwide network of networks that employ a set of industry standards and protocols, or any predecessor or successor protocol to such protocol, to exchange information of all
kinds. "Internet," as used in this article, also includes other networks, whether private or public, used to transmit information by electronic means.

[35.] 33. "By means of the internet" means any sale, delivery, distribution, or dispensing of a controlled substance that uses the internet, is initiated by use of the internet or causes the internet to be used.

[36.] 34. "Online dispenser" means a practitioner, pharmacy, or person in the United States that sells, delivers or dispenses, or offers to sell, deliver, or dispense, a controlled substance by means of the internet.

[37.] 35. "Electronic prescription" means a prescription issued with an electronic signature and transmitted by electronic means in accordance with regulations of the commissioner and the commissioner of education and consistent with federal requirements. A prescription generated on an electronic system that is printed out or transmitted via facsimile is not considered an electronic prescription and must be manually signed.

[38.] 36. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities. "Electronic" shall not include facsimile.

[39.] 37. "Electronic record" means a paperless record that is created, generated, transmitted, communicated, received or stored by means of electronic equipment and includes the preservation, retrieval, use and disposition in accordance with regulations of the commissioner and the commissioner of education and in compliance with federal law and regulations.

[40.] 38. "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record, in accordance with regulations of the commissioner and the commissioner of education.

[41.] 39. "Registry" or "prescription monitoring program registry" means the prescription monitoring program registry established pursuant to section thirty-three hundred forty-three-a of this article.

[42.] 40. "Compounding" means the combining, admixing, mixing, diluting, pooling, reconstituting, or otherwise altering of a drug or bulk drug substance to create a drug with respect to an outsourcing facility under section 503B of the federal Food, Drug and Cosmetic Act and further defined in this section.

[43.] 41. "Outsourcing facility" means a facility that:
(a) is engaged in the compounding of sterile drugs as defined in section sixty-eight hundred two of the education law;
(b) is currently registered as an outsourcing facility pursuant to article one hundred thirty-seven of the education law; and
(c) complies with all applicable requirements of federal and state law, including the Federal Food, Drug and Cosmetic Act.

Notwithstanding any other provision of law to the contrary, when an outsourcing facility distributes or dispenses any drug to any person pursuant to a prescription, such outsourcing facility shall be deemed to be providing pharmacy services and shall be subject to all laws, rules and regulations governing pharmacies and pharmacy services.

§ 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of
1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of
the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the
laws of 2006, are amended to read as follows:

(13) [Marihuana.
(14)] Mescaline.
[(15)] (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-diben{b,d} pyran.
[(16)] (15) Peyote. Meaning all parts of the plant presently classi-
fied botanically as Lophophora williamsii Lemaire, whether growing or
not, the seeds thereof, any extract from any part of such plant, and
every compound, manufacture, salts, derivative, mixture, or preparation
of such plant, its seeds or extracts.
[(17)] (16) N-ethyl-3-piperidyl benzilate.
[(18)] (17) N-methyl-3-piperidyl benzilate.
[(19)] (18) Psilocybin.
[(20)] (19) Psilocyn.
[(21)] (20) Tetrahydrocannabinols. Synthetic TETRAHYDROCANNABINOLS NOT
DERIVED FROM THE CANNABIS PLANT THAT ARE equivalents of the substances
contained in the plant, or in the resinous extractives of cannabis, sp.
and/or synthetic substances, derivatives, and their isomers with similar
chemical structure and pharmacological activity such as the following:
[\] DELTA 1 cis or trans tetrahydrocannabinol, and their optical
isomers
[\] DELTA 6 cis or trans tetrahydrocannabinol, and their optical
isomers (since nomenclature of these substances is not internationally
standardized, compounds of these structures, regardless of numerical
designation of atomic positions covered).
[(22)] (21) Ethylamine analog of phencyclidine. Some trade or other
names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.
[(23)] (22) Pyrrolidine analog of phencyclidine. Some trade or other
names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.
[(24)] (23) Thiophene analog of phencyclidine. Some trade or other
names: 1-(1-(2-thienyl)-cyclohexyl)-piperidine, 2-thienylanalog of
phencyclidine, TCP, TCP.
[(25)] (24) 3,4-methylenedioxymethamphetamine (MDMA).
[(26)] (25) 3,4-methylendioxy-N-ethylamphetamine (also known as
N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
MDE, MDEA.
[(27)] (26) N-hydroxy-3,4-methylenedioxymethamphetamine (also known as
N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
N-hydroxy MDA.
[(28)] (27) 1-(1- (2-thienyl) cyclohexyl) pyrrolidine. Some other
names: TCPY.
[(29)] (28) Alpha-ethyltryptamine. Some trade or other names:
etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
3- (2-aminobutyl) indole; Alpha-ET or AET.
[(30)] (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
names: DOET.
[(31)] (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
DOB; 2C-B, Nexus.
[(32)] (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
optical isomers, salts and salts of isomers.
$ 5. Section 3382 of the public health law, as added by chapter 878 of the laws of 1972, is amended to read as follows:

$ 3382. Growing of the plant known as Cannabis by unlicensed persons. A person who, without being licensed so to do under this article, grows the plant of the genus Cannabis or knowingly allows it to grow on his land without destroying the same, shall be guilty of a class A misdemeanor, UNLESS THE PERSON GROWS IN ACCORDANCE WITH SECTIONS 221.05 AND 221.05-A OF THE PENAL LAW.

§ 6. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs (a) and (b) of subdivision 11 of section 1311 of the civil practice law and rules, paragraph (d) of subdivision three and subdivision 3-a as added by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdivision 11 as amended by section 47 of part A-1 of chapter 56 of the laws of 2010, are amended to read as follows:

(d) In a forfeiture action commenced by a claiming authority against a defendant, the following rebuttable presumption shall apply: all currency or negotiable instruments payable to the bearer shall be presumed to be the proceeds of a pre-conviction forfeiture crime when such currency or negotiable instruments are (i) found in close proximity to a controlled substance unlawfully possessed by the defendant in an amount sufficient to constitute a violation of section 220.18 or 220.21 of the penal law, or (ii) found in close proximity to any quantity of a controlled substance [or marihuana] unlawfully possessed by such defendant in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, distribute, package or otherwise prepare for sale such controlled substance [or marihuana].

3-a. Conviction of a person in a criminal action upon an accusatory instrument which includes one or more of the felonies specified in subdivision four-b of section thirteen hundred ten of this article, of any felony other than such felonies, shall not preclude a defendant, in any subsequent proceeding under this article where that conviction is at issue, from adducing evidence that the conduct underlying the conviction would not establish the elements of any of the felonies specified in such subdivision other than the one to which the criminal defendant pled guilty. If the defendant does adduce such evidence, the burden shall be upon the claiming authority to prove, by clear and convincing evidence, that the conduct underlying the criminal conviction would establish the elements of the felony specified in such subdivision. Nothing contained in this subdivision shall affect the validity of a settlement of any forfeiture action negotiated between the claiming authority and a criminal defendant contemporaneously with the taking of a plea of guilty in a criminal action to any felony defined in article two hundred twenty [or section 221.30 or 221.55] of the penal law, or to a felony conspiracy to commit the same.

(a) Any stipulation or settlement agreement between the parties to a forfeiture action shall be filed with the clerk of the court in which the forfeiture action is pending. No stipulation or settlement agreement shall be accepted for filing unless it is accompanied by an affidavit from the claiming authority that written notice of the stipulation or settlement agreement, including the terms of such, has been given to the office of victim services, the state division of criminal justice services[, and in the case of a forfeiture based on a felony defined in article two hundred twenty or section 221.30 or 221.55 of the penal law, to the state division of substance abuse services].

(b) No judgment or order of forfeiture shall be accepted for filing unless it is accompanied by an affidavit from the claiming authority
1. ["Marijuana"] "MARIHUANA" means [marijuana] MARIHUANA as defined in
[section thirty-three hundred two of this chapter] SUBDIVISION SIX OF
SECTION 220.00 OF THE PENAL LAW and shall also include tetrahydrocanna-
binols or a chemical derivative of tetrahydrocannabinol.
§ 8. Section 114-a of the vehicle and traffic law, as added by chapter
163 of the laws of 1973, is amended to read as follows:
§ 114-a. Drug. The term "drug" when used in this chapter, means and
includes any substance listed in section thirty-three hundred six of the
public health law AND MARIHUANA AND CONCENTRATED CANNABIS AS DEFINED IN
SECTION 220.00 OF THE PENAL LAW.
§ 9. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
amended by chapter 664 of the laws of 1985, are amended and two new
subdivisions 21 and 22 are added to read as follows:
5. "Controlled substance" means any substance listed in schedule I,
II, III, IV or V of section thirty-three hundred six of the public
health law other than marihuana, but including concentrated cannabis as
defined in [paragraph (a) of subdivision four of section thirty-three
hundred two of such law] SUBDIVISION TWENTY-ONE OF THIS SECTION.
6. "Marihuana" means ["marihuana" or "concentrated cannabis" as those
terms are defined in section thirty-three hundred two of the public
health law] ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER GROW-
ING OR NOT; THE SEEDS THEREOF; THE RESIN EXTRACTED FROM ANY PART OF THE
PLANT; AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR
PREPARATION OF THE PLANT, ITS SEEDS OR RESIN. IT DOES NOT INCLUDE THE
MATURE STALKS OF THE PLANT, FIBER PRODUCED FROM THE STALKS, OIL OR CAKE
MADE FROM THE SEEDS OF THE PLANT, ANY OTHER COMPOUND, MANUFACTURE, SALT,
DERIVATIVE, MIXTURE, OR PREPARATION OF THE MATURE STALKS (EXCEPT THE
RESIN EXTRACTED THEREFROM), FIBER, OIL, OR CAKE, OR THE STERILIZED SEED
OF THE PLANT WHICH IS INCAPABLE OF GERMINATION. IT DOES NOT INCLUDE ALL
PARTS OF THE PLANT CANNABIS SATIVA L., WHETHER GROWING OR NOT, HAVING NO
MORE THAN THREE-TENTHS OF ONE PERCENT TETRAHYDROCANNABINOL (THC).
9. "Hallucinogen" means any controlled substance listed in [schedule
I(d)] PARAGRAPHS (5), [(18), (19), (20), (21) and (22)] (17), (18),
(19), (20) AND (21) OF SUBDIVISION (D) OF SCHEDULE I OF SECTION THIRTY-
THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW.
21. "CONCENTRATED CANNABIS" MEANS:
(A) THE SEPARATED RESIN, WHETHER CRUDE OR PURIFIED, OBTAINED FROM A
PLANT OF THE GENUS CANNABIS; OR
(B) A MATERIAL, PREPARATION, MIXTURE, COMPOUND OR OTHER SUBSTANCE
WHICH CONTAINS MORE THAN THREE PERCENT BY WEIGHT OF DELTA-9 TETRAHYDRO-
CANNABINOL, OR ITS ISOMER, DELTA-8 DIBENZOPYRAN NUMBERING SYSTEM, OR
DELTA-1 TETRAHYDROCANNABINOL OR ITS ISOMER, DELTA 1 (6) MONOTERPENE
NUMBERING SYSTEM.
22. "MARIHUANA PRODUCTS" MEANS MARIHUANA, CONCENTRATED CANNABIS, AND
MARIHUANA-INFUSED PRODUCTS CONTAINING CONCENTRATED MARIHUANA OR CANNABIS
AND OTHER INGREDIENTS.
§ 10. Subdivision 4 of section 220.06 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

4. one or more preparations, compounds, mixtures or substances containing concentrated cannabis as defined in [paragraph (a) of subdivision four of section thirty-three hundred two of the public health law] SUBDIVISION TWENTY-ONE OF SECTION 220.00 OF THIS ARTICLE and said preparations, compounds, mixtures or substances are of an aggregate weight of one-fourth ounce or more; or

§ 11. Subdivision 10 of section 220.09 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

10. one or more preparations, compounds, mixtures or substances containing concentrated cannabis as defined in [paragraph (a) of subdivision four of section thirty-three hundred two of the public health law] SUBDIVISION TWENTY-ONE OF SECTION 220.00 OF THIS ARTICLE and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more; or

§ 12. Subdivision 3 of section 220.34 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

3. concentrated cannabis as defined in [paragraph (a) of subdivision four of section thirty-three hundred two of the public health law] SUBDIVISION TWENTY-ONE OF SECTION 220.00 OF THIS ARTICLE; or

§ 13. Section 220.50 of the penal law, as amended by chapter 627 of the laws of 1990, is amended to read as follows:

$ 220.50 Criminally using drug paraphernalia in the second degree.

A person is guilty of criminally using drug paraphernalia in the second degree when he knowingly possesses or sells:

1. Diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, mannitol, mannite, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purposes of unlawfully mixing, compounding, or otherwise preparing any narcotic drug or stimulant, OTHER THAN MARIHUANA OR CONCENTRATED CANNABIS; or

2. Gelatine capsules, glassine envelopes, vials, capsules or any other material suitable for the packaging of individual quantities of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for the purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant, OTHER THAN MARIHUANA OR CONCENTRATED CANNABIS; or

3. Scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant, OTHER THAN MARIHUANA OR CONCENTRATED CANNABIS.

Criminally using drug paraphernalia in the second degree is a class A misdemeanor.

§ 14. Sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 and 221.40 of the penal law are REPEALED.

§ 15. The penal law is amended by adding two new sections 221.05 and 221.05-a to read as follows:

$ 221.05 PERSONAL USE OF MARIHUANA.
1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE FOLLOWING ACTS ARE LAWFUL UNDER STATE AND LOCAL LAW FOR PERSONS TWENTY-ONE YEARS OF AGE AND OLDER:

(A) POSSESSING, USING, BEING UNDER THE INFLUENCE, DISPLAYING, PURCHASING, OBTAINING, OR TRANSPORTING UP TO TWO POUNDS OF MARIHUANA AND FOUR AND ONE-HALF OUNCES OF CONCENTRATED CANNABIS;

(B) TRANSFERRING, WITHOUT REMUNERATION, TO A PERSON TWENTY-ONE YEARS OF AGE AND OLDER UP TO TWO POUNDS OF MARIHUANA AND FOUR AND ONE-HALF OUNCES OF CONCENTRATED CANNABIS;

(C) POSSESSING, PLANTING, CULTIVATING, HARVESTING, DRYING, PROCESSING THE MARIHUANA AND CONCENTRATED CANNABIS PRODUCED BY THE PLANTS;

(D) SMOKING, INGESTING OR OTHERWISE CONSUMING MARIHUANA PRODUCTS;

(E) POSSESSING, USING, DISPLAYING, PURCHASING, OBTAINING, MANUFACTURING, TRANSPORTING OR GIVING AWAY TO PERSONS TWENTY-ONE YEARS OF AGE AND OLDER MARIHUANA OR CONCENTRATED CANNABIS PARAPHERNALIA; AND

(F) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE AND OLDER OR ALLOW PROPERTY TO BE USED IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (A) THROUGH (E) OF THIS SUBDIVISION.

2. PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION IS INTENDED TO MEET THE REQUIREMENTS OF SUBSECTION (F) OF SECTION 863 OF TITLE TWENTY-ONE OF THE UNITED STATES CODE (21 U.S.C. § 863 (F)) BY AUTHORIZING, UNDER STATE LAW, ANY PERSON IN COMPLIANCE WITH THIS SECTION TO MANUFACTURE, POSSESS, OR DISTRIBUTE MARIHUANA PARAPHERNALIA.

3. MARIHUANA PRODUCTS INVOLVED IN ANY WAY WITH CONDUCT DEEMED LAWFUL BY THIS SECTION ARE NOT CONTRABAND NOR SUBJECT TO SEIZURE OR FORFEITURE OF ASSETS UNDER ARTICLE FOUR HUNDRED EIGHTY OF THIS CHAPTER, SECTION THIRTEEN HUNDRED ELEVEN OF THE CIVIL PRACTICE LAW AND RULES, OR OTHER APPLICABLE LAW, AND NO CONDUCT DEEMED LAWFUL BY THIS SECTION SHALL CONSTITUTE THE BASIS FOR APPROACH, SEARCH, SEIZURE, ARREST, AND/OR DETENTION.

4. (A) EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION, NONE OF THE FOLLOWING SHALL, INDIVIDUALLY OR IN COMBINATION WITH EACH OTHER, CONSTITUTE REASONABLE SUSPICION OF A CRIME OR BE USED AS EVIDENCE IN ANY CRIMINAL PROCEEDING:

(1) THE ODOR OF MARIHUANA OR OF BURNT MARIHUANA;

(2) THE POSSESSION OF OR THE SUSPICION OF POSSESSION OF MARIHUANA PRODUCTS;

(3) THE POSSESSION OF MULTIPLE CONTAINERS OF MARIHUANA WITHOUT EVIDENCE OF MARIHUANA QUANTITY IN EXCESS OF SIXTEEN OUNCES OR CONCENTRATED CANNABIS QUANTITY IN EXCESS OF FOUR AND ONE-HALF OUNCES; OR

(4) THE PRESENCE OF CASH OR CURRENCY CANNOT BE USED AS EVIDENCE IN ANY CASES INVOLVING UNLICENSED SALE OF MARIHUANA.

(B) THE POSSESSION OF NOT MORE THAN TWO POUNDS OF MARIHUANA OR NOT MORE THAN FOUR AND ONE-HALF OUNCES OF CONCENTRATED CANNABIS CANNOT BE USED AS EVIDENCE IN ANY CASES INVOLVING UNLICENSED SALE OF MARIHUANA.

5. SUBDIVISION FOUR OF THIS SECTION SHALL NOT APPLY WHEN A LAW ENFORCEMENT OFFICER IS INVESTIGATING WHETHER A PERSON IS OPERATING OR IN PHYSICAL CONTROL OF A VEHICLE OR WATERCRAFT WHILE INTOXICATED, UNDER THE INFLUENCE OF, OR IMPAIRED BY ALCOHOL OR A DRUG OR ANY COMBINATION THEREOF IN VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW.

6. POSSESSION OF GREATER THAN TWO POUNDS OF MARIHUANA AND GREATER THAN FOUR AND ONE-HALF OUNCES OF CONCENTRATED CANNABIS IS A VIOLATION PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED TWENTY-FIVE DOLLARS PER OFFENSE.
§ 221.05 - A PERSONAL CULTIVATION OF MARIHUANA.

1. PERSONAL CULTIVATION OF MARIHUANA UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 221.05 OF THIS ARTICLE IS SUBJECT TO THE FOLLOWING RESTRICTIONS:

(A) A PERSON SHALL PLANT, CULTIVATE, HARVEST, DRY, OR PROCESS PLANTS IN ACCORDANCE WITH LOCAL ORDINANCES, IF ANY, ADOPTED IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION;

(B) THE LIVING PLANTS AND ANY MARIHUANA PRODUCED BY THE PLANTS IN EXCESS OF TWO POUNDS ARE KEPT WITHIN THE PERSON'S PRIVATE RESIDENCE, OR UPON THE GROUNDS OF THAT PRIVATE RESIDENCE (E.G., IN AN OUTDOOR GARDEN AREA), ARE IN A LOCKED SPACE, AND ARE NOT VISIBLE BY NORMAL UNAIDED VISION FROM A PUBLIC PLACE; AND

(C) NOT MORE THAN SIX LIVING PLANTS MAY BE PLANTED, CULTIVATED, HARVESTED, DRIED, OR PROCESSED WITHIN A SINGLE PRIVATE RESIDENCE, OR UPON THE GROUNDS OF THAT PRIVATE RESIDENCE, AT ONE TIME.

2. (A) A TOWN, CITY OR VILLAGE MAY ENACT AND ENFORCE REASONABLE REGULATIONS TO REASONABLY REGULATE THE ACTIONS AND CONDUCT IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 221.05 OF THIS ARTICLE, PROVIDED THAT A VIOLATION OF SUCH A REGULATION IS ONLY SUBJECT TO AN INFRACTION AND FINE.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, NO TOWN, CITY OR VILLAGE MAY COMPLETELY PROHIBIT PERSONS ENGAGING IN THE ACTIONS AND CONDUCT UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 221.05 OF THIS ARTICLE.

3. A VIOLATION OF SUBDIVISION ONE OR TWO OF THIS SECTION IS A VIOLATION PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED TWENTY-FIVE DOLLARS PER OFFENSE.

§ 16. Section 221.45 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.45 [Criminal] UNLICENSED sale of marihuana in the third degree.

A person TWENTY-ONE YEARS OF AGE AND OLDER is guilty of [criminal] UNLICENSED sale of marihuana in the third degree when he knowingly and unlawfully sells [one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams] WITH REMUNERATION NOT MORE THAN TWO POUNDS OF MARIHUANA OR NOT MORE THAN FOUR AND ONE-HALF OUNCES OF CONCENTRATED CANNABIS, NOT INCLUDING THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIHUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

[Criminal] UNLICENSED sale of marihuana in the third degree is [a class E felony] SUBJECT TO THE FOLLOWING:

1. A VIOLATION PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED TWENTY-FIVE DOLLARS, FOR A FIRST OFFENSE;

2. A VIOLATION PUBLISHABLE BY A FINE OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR A SECOND OFFENSE;

3. A CLASS B MISDEMEANOR AND A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR A THIRD OR SUBSEQUENT OFFENSE.

§ 17. Section 221.50 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.50 [Criminal] UNLICENSED sale of marihuana in the second degree.

A person TWENTY-ONE YEARS OF AGE AND OLDER is guilty of [criminal] UNLICENSED sale of marihuana in the second degree when he knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds,
mixtures or substances are of an aggregate weight of more than four
ounces, or knowingly and unlawfully sells one or more preparations,
compounds, mixtures [or substances containing marihuana] to a person
less than [eighteen] TWENTY-ONE years of age.

[Criminal] UNLICENSED sale of marihuana in the second degree is a
class [D] E felony.

§ 18. Section 221.55 of the penal law, as amended by chapter 265 of
the laws of 1979, the opening paragraph as amended by chapter 75 of the
laws of 1995, is amended to read as follows:

§ 221.55 [Criminal] UNLICENSED sale of marihuana in the first degree.

A person is guilty of [criminal] UNLICENSED sale of marihuana in the
first degree when he knowingly and unlawfully sells TO A PERSON LESS
THAN TWENTY-ONE YEARS OF AGE one or more preparations, compounds,
mixtures or substances containing marihuana and the preparations,
compounds, mixtures or substances are of an aggregate weight of more
than sixteen ounces.

[Criminal] UNLICENSED sale of marihuana in the first degree is a class
[C] E felony.

§ 19. The penal law is amended by adding a new section 221.60 to read
as follows:

§ 221.60 LICENSING OF MARIHUANA PRODUCTION AND DISTRIBUTION.

THE PROVISIONS OF THIS ARTICLE AND OF ARTICLE TWO HUNDRED TWENTY OF
THIS TITLE SHALL NOT APPLY TO ANY PERSON EXEMPTED FROM CRIMINAL PENAL-
TIES PURSUANT TO THE PROVISIONS OF THIS CHAPTER OR POSSESSING, MANUFAC-
TURING, TRANSPORTING, DISTRIBUTING, SELLING OR TRANSFERRING MARIHUANA OR
CONCENTRATED CANNABIS, OR ENGAGED IN ANY OTHER ACTION THAT IS IN COMPLI-
ANCE WITH ARTICLE ELEVEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW.

§ 20. Subdivision 8 of section 1399-n of the public health law, as
amended by chapter 13 of the laws of 2003, is amended to read as
follows:

8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
any other matter or substance which contains tobacco OR MARIHUANA;
PROVIDED THAT IT DOES NOT INCLUDE THE USE OF AN ELECTRONIC SMOKING
DEVICE THAT CREATES AN AEROSOL OR VAPOR, UNLESS LOCAL OR STATE STATUTES
EXTEND PROHIBITIONS ON SMOKING TO ELECTRONIC SMOKING DEVICES.

§ 21. Section 2 of the alcoholic beverage control law, as amended by
chapter 406 of the laws of 2014, is amended to read as follows:

§ 2. Policy of state and purpose of chapter. It is hereby declared as
the policy of the state that it is necessary to regulate and control the
manufacture, sale and distribution within the state of alcoholic bev-
erages AND MARIHUANA PRODUCTS for the purpose of fostering and promoting
temperance in their consumption and respect for and obedience to law;
for the primary purpose of promoting the health, welfare and safety of
the people of the state, promoting temperance in the consumption of
alcoholic beverages AND MARIHUANA PRODUCTS; and, to the extent possible,
supporting economic growth, job development, and the state's alcoholic
beverage production industries, MARIHUANA PRODUCTION INDUSTRIES and its
tourism and recreation industry; and which promotes the conservation and
enhancement of state agricultural lands; provided that such activities
do not conflict with the primary regulatory objectives of this chapter.

It is hereby declared that such policies will best be carried out by
empowering the liquor authority of the state to determine whether public
convenience and advantage will be promoted by the issuance of licenses
to traffic in alcoholic beverages AND MARIHUANA PRODUCTS, the increase
or decrease in the number thereof and the location of premises licensed
thereby, subject only to the right of judicial review provided for in
1 this chapter. It is the purpose of this chapter to carry out these poli-
2 cies in the public interest.
3 § 22. Subdivisions 20-a, 20-b, 20-c, 20-d, 20-e, 20-f, and 20-g of
4 section 3 of the alcoholic beverage control law are renumbered subdi-
5 visions 20-j, 20-k, 20-l, 20-m, 20-n, 20-o, and 20-p and ten new subdi-
6 visions 7-e, 20-a, 20-b, 20-c, 20-d, 20-e, 20-f, 20-g, 20-h and 20-i are
7 added to read as follows:
8 7-E. "CONCENTRATED CANNABIS" MEANS: (A) THE SEPARATED RESIN, WHETHER
9 CRUDE OR PURIFIED, OBTAINED FROM A PLANT OF THE GENUS CANNABIS; OR
10 (B) A MATERIAL, PREPARATION, MIXTURE, COMPOUND OR OTHER SUBSTANCE
11 WHICH CONTAINS MORE THAN THREE PERCENT BY WEIGHT OF DELTA-9 TETRAHYDRO-
12 CANNABINOL, OR ITS ISOMER, DELTA-8 DIBENZOPYRAN NUMBERING SYSTEM, OR
13 DELTA-1 TETRAHYDROCANNABINOL OR ITS ISOMER, DELTA 1 (6) MONOTERPENE
14 NUMBERING SYSTEM.
15 20-A. "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS,
16 WHETHER GROWING OR NOT; THE SEEDS THEREOF; THE RESIN EXTRACTED FROM ANY
17 PART OF THE PLANT; AND EVERY COMPOUND, MANUFACTURE, SALTS, DERIVATIVE,
18 MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS OR RESIN. IT DOES NOT
19 INCLUDE THE MATURE STALKS OF THE PLANT, FIBER PRODUCED FROM THE STALKS,
20 OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, ANY OTHER COMPOUND, MANU-
21 FACTURE, SALTS, DERIVATIVE, MIXTURE, OR PREPARATION OF THE MATURE STALKS
22 EXCEPT THE RESIN EXTRACTED THEREFROM), FIBER, OIL, OR CAKE, OR THE
23 STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION. IT DOES
24 NOT INCLUDE ALL PARTS OF THE PLANT CANNABIS SATIVA L., WHETHER GROWING
25 OR NOT, HAVING NO MORE THAN THREE-TENTHS OF ONE PERCENT TETRAHYDROCANNA-
26 BINOL (THC).
27 20-B. "MARIHUANA CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR
28 OLDER WHO PURCHASES MARIHUANA OR MARIHUANA PRODUCTS FOR PERSONAL USE BY
29 PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.
30 20-C. "MARIHUANA PROCESSOR" MEANS A PERSON LICENSED BY THE BUREAU TO
31 PURCHASE MARIHUANA AND CONCENTRATED CANNABIS FROM MARIHUANA PRODUCERS,
32 TO PROCESS MARIHUANA, CONCENTRATED CANNABIS, AND MARIHUANA INFUSED
33 PRODUCTS, PACKAGE AND LABEL MARIHUANA, CONCENTRATED CANNABIS AND MARI-
34 HUANA INFUSED PRODUCTS FOR SALE IN RETAIL OUTLETS, AND SELL MARIHUANA,
35 CONCENTRATED CANNABIS AND MARIHUANA INFUSED PRODUCTS AT WHOLESALE TO
36 MARIHUANA RETAILERS.
37 20-D. "MARIHUANA PRODUCER" MEANS A PERSON LICENSED BY THE BUREAU TO
38 PRODUCE, PROCESS, AND SELL MARIHUANA AND CONCENTRATED CANNABIS AT WHOLE-
39 SALE TO MARIHUANA PROCESSORS, MARIHUANA RETAILERS, OR OTHER MARIHUANA
40 PRODUCERS, BUT NOT TO CONSUMERS.
41 20-E. "MARIHUANA PRODUCTS" MEANS MARIHUANA, CONCENTRATED CANNABIS, AND
42 MARIHUANA-INFUSED PRODUCTS.
43 20-F. "MARIHUANA-INFUSED PRODUCTS" MEANS PRODUCTS THAT CONTAIN MARI-
44 HUANA, OR CONCENTRATED CANNABIS AND ARE INTENDED FOR HUMAN USE OR
45 CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS,
46 AND TINCTURES.
47 20-G. "MARIHUANA RETAILER" MEANS A PERSON LICENSED BY THE BUREAU TO
48 PURCHASE MARIHUANA, CONCENTRATED CANNABIS, AND MARIHUANA-INFUSED
49 PRODUCTS FROM MARIHUANA PRODUCERS AND MARIHUANA PROCESSORS AND SELL
50 MARIHUANA, MARIHUANA INFUSED PRODUCTS, AND CONCENTRATED CANNABIS IN A
51 RETAIL OUTLET.
52 20-H. "MARIHUANA RETAILER FOR ON-PREMISES CONSUMPTION" MEANS A PERSON
53 LICENSED BY THE BUREAU TO PURCHASE MARIHUANA, CONCENTRATED CANNABIS, AND
54 MARIHUANA INFUSED PRODUCTS FROM MARIHUANA PRODUCERS, MARIHUANA RETAIL-
55 ERS, AND MARIHUANA PROCESSORS AND SELL MARIHUANA PRODUCTS FOR A CUSTOMER
56 TO CONSUME WHILE THE CUSTOMER IS WITHIN A FACILITY.
"UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME OR OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIHUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT BY A REASONABLY PRUDENT BUSINESSPERSON.

§ 23. Section 65-b of the alcoholic beverage control law, as amended by chapter 519 of the laws of 1999, paragraphs (b) and (c) of subdivision 3 as amended by chapter 257 of the laws of 2013 and the opening paragraph of subdivision 6 as amended by chapter 503 of the laws of 2000, is amended to read as follows:

§ 65-b. Offense for one under age of twenty-one years to purchase or attempt to purchase an alcoholic beverage OR MARIHUANA PRODUCTS through fraudulent means. 1. As used in this section: (a) "A device capable of deciphering any electronically readable format" or "device" shall mean any commercial device or combination of devices used at a point of sale or entry that is capable of reading the information encoded on the magnetic strip or bar code of a driver's license or non-driver identification card issued by the commissioner of motor vehicles;

(b) "Card holder" means any person presenting a driver's license or non-driver identification card to a licensee, or to the agent or employee of such licensee under this chapter; and

(c) "Transaction scan" means the process involving a device capable of deciphering any electronically readable format by which a licensee, or agent or employee of a licensee under this chapter reviews a driver's license or non-driver identification card presented as a precondition for the purchase of an alcoholic beverage OR MARIHUANA PRODUCTS as required by subdivision two of this section or as a precondition for admission to an establishment licensed for the on-premises sale of alcoholic beverages OR MARIHUANA PRODUCTS where admission is restricted to persons twenty-one years or older.

2. (a) No person under the age of twenty-one years shall present or offer to any licensee under this chapter, or to the agent or employee of such licensee, any written evidence of age which is false, fraudulent or not actually his OR HER own, for the purpose of purchasing or attempting to purchase any alcoholic beverage OR MARIHUANA PRODUCTS.

(b) No licensee, or agent or employee of such licensee shall accept as written evidence of age by any such person for the purchase of any alcoholic beverage OR MARIHUANA PRODUCTS, any documentation other than: (i) a valid driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (ii) a valid passport issued by the United States government or any other country, or (iii) an identification card issued by the armed forces of the United States. Upon the presentation of such driver's license or non-driver identification card issued by a governmental entity, such licensee or agent or employee thereof may perform a transaction scan as a precondition to the sale of any alcoholic beverage. Nothing in this section shall prohibit a licensee or agent or employee from performing such a transaction scan on any of the other documents listed in this subdivision if such documents include a bar code or magnetic strip that [that] may be scanned by a device capable of deciphering any electronically readable format.

(c) In instances where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card presented by the card holder, or if the
transaction scan indicates that the information is false or fraudulent, the attempted purchase of the alcoholic beverage or MARIHUANA PRODUCTS shall be denied.

3. A person violating the provisions of paragraph (a) of subdivision two of this section shall be guilty of a violation and shall be sentenced in accordance with the following:

(a) For a first violation, the court shall order payment of a fine of not more than one hundred dollars and/or an appropriate amount of community service not to exceed thirty hours. In addition, the court may order completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law or of a MARIHUANA AWARENESS PROGRAM.

(b) For a second violation, the court shall order payment of a fine of not less than fifty dollars nor more than three hundred fifty dollars and/or an appropriate amount of community service not to exceed sixty hours. The court also shall order completion of an alcohol or MARIHUANA awareness program as referenced in paragraph (a) of this subdivision if such program has not previously been completed by the offender, unless the court determines that attendance at such program is not feasible due to the lack of availability of such program within a reasonably close proximity to the locality in which the offender resides or matriculates, as appropriate.

(c) For third and subsequent violations, the court shall order payment of a fine of not less than fifty dollars nor more than seven hundred fifty dollars and/or an appropriate amount of community service not to exceed ninety hours. The court also shall order that such person submit to an evaluation by an appropriate agency certified or licensed by the office of alcoholism and substance abuse services to determine whether the person suffers from the disease of alcoholism or alcohol abuse USE DISORDER OR CANNABIS USE DISORDER, unless the court determines that under the circumstances presented such an evaluation is not necessary, in which case the court shall state on the record the basis for such determination. Payment for such evaluation shall be made by such person. If, based on such evaluation, a need for treatment is indicated, such person may choose to participate in a treatment plan developed by an agency certified or licensed by the office of alcoholism and substance abuse services. If such person elects to participate in recommended treatment, the court shall order that payment of such fine and community service be suspended pending the completion of such treatment.

(d) Evaluation procedures. For purposes of this subdivision, the following shall apply:

(i) The contents of an evaluation pursuant to paragraph (c) of this subdivision shall be used for the sole purpose of determining if such person suffers from the disease of alcoholism or alcohol abuse DETERMINING IF SUCH PERSON MEETS THE CRITERIA FOR AN ALCOHOL USE DISORDER OR CANNABIS USE DISORDER.

(ii) The agency designated by the court to perform such evaluation shall conduct the evaluation and return the results to the court within thirty days, subject to any state or federal confidentiality law, rule or regulation governing the confidentiality of alcohol and substance abuse treatment records.

(iii) The office of alcoholism and substance abuse services shall make available to each supreme court law library in this state, or, if no supreme court law library is available in a certain county, to the county court law library of such county, a list of agencies certified to
perform evaluations as required by subdivision (f) of section 19.07 of the mental hygiene law.

(iv) All evaluations required under this subdivision shall be in writing and the person so evaluated or his or her counsel shall receive a copy of such evaluation prior to its use by the court.

(v) A minor evaluated under this subdivision shall have, and shall be informed by the court of, the right to obtain a second opinion regarding his or her need for [alcoholism] treatment OF AN ALCOHOL OR OTHER SUBSTANCE USE DISORDER.

4. A person violating the provisions of paragraph (b) of subdivision two of this section shall be guilty of a violation punishable by a fine of not more than one hundred dollars, and/or an appropriate amount of community service not to exceed thirty hours. In addition, the court may order completion of an alcohol OR SUBSTANCE USE DISORDER training awareness program established pursuant to subdivision twelve of section seventeen of this chapter where such program is located within a reasonably close proximity to the locality in which the offender is employed or resides.

5. No determination of guilt pursuant to this section shall operate as a disqualification of any such person subsequently to hold public office, public employment, or as a forfeit of any right or privilege or to receive any license granted by public authority; and no such person shall be denominated a criminal by reason of such determination.

6. In addition to the penalties otherwise provided in subdivision three of this section, if a determination is made sustaining a charge of illegally purchasing or attempting to illegally purchase an alcoholic beverage OR MARIHUANA PRODUCTS, the court may suspend such person's license to drive a motor vehicle and the privilege of an unlicensed person of obtaining such license, in accordance with the following and for the following periods, if it is found that a driver's license was used for the purpose of such illegal purchase or attempt to illegally purchase; provided, however, that where a person is sentenced pursuant to paragraph (b) or (c) of subdivision three of this section, the court shall impose such license suspension if it is found that a driver's license was used for the purpose of such illegal purchase or attempt to illegally purchase:

(a) For a first violation of paragraph (a) of subdivision two of this section, a three month suspension.

(b) For a second violation of paragraph (a) of subdivision two of this section, a six month suspension.

(c) For a third or subsequent violation of paragraph (a) of subdivision two of this section, a suspension for one year or until the holder reaches the age of twenty-one, whichever is the greater period of time.

Such person may thereafter apply for and be issued a restricted use license in accordance with the provisions of section five hundred thirty of the vehicle and traffic law.

7. (a) In any proceeding pursuant to subdivision one of section sixty-five of this article, it shall be an affirmative defense that such person had produced a driver's license or non-driver identification card apparently issued by a governmental entity, successfully completed the transaction scan, and that the alcoholic beverage OR MARIHUANA PRODUCTS had been sold, delivered or given to such person in reasonable reliance upon such identification and transaction scan. In evaluating the applicability of such affirmative defense, the liquor authority shall take into consideration any written policy adopted and implemented by the seller to carry out the provisions of this chapter. Use of a transaction
scan shall not excuse any licensee under this chapter, or agent or employee of such licensee, from the exercise of reasonable diligence otherwise required by this section. Notwithstanding the above provisions, any such affirmative defense shall not be applicable in any other civil or criminal proceeding, or in any other forum.

(b) A licensee or agent or employee of a licensee may electronically or mechanically record and maintain only the information from a transaction scan necessary to effectuate the purposes of this section. Such information shall be limited to the following: (i) name, (ii) date of birth, (iii) driver's license or non-driver identification number, and (iv) expiration date. The liquor authority and the state commissioner of motor vehicles shall jointly promulgate any regulation necessary to govern the recording and maintenance of these records by a licensee under this chapter. The liquor authority and the commissioner of health shall jointly promulgate any regulations necessary to ensure quality control in the use of transaction scan devices.

8. A licensee or agent or employee of such licensee shall only use the information recorded and maintained through the use of such devices for the purposes contained in paragraph (a) of subdivision seven of this section, and shall only use such devices for the purposes contained in subdivision two of this section. No licensee or agent or employee of a licensee shall resell or disseminate the information recorded during such scan to any third person. Such prohibited resale or dissemination includes, but is not limited to, any advertising, marketing or promotional activities. Notwithstanding the restrictions imposed by this subdivision, such records may be released pursuant to a court ordered subpoena or pursuant to any other statute that specifically authorizes the release of such information. Each violation of this subdivision shall be punishable by a civil penalty of not more than one thousand dollars.

§ 24. Section 65-c of the alcoholic beverage control law, as added by chapter 592 of the laws of 1989, paragraph (a) of subdivision 2 as amended by chapter 409 of the laws of 2016 and subdivision 3 as amended by chapter 137 of the laws of 2001, is amended to read as follows:

§ 65-c. Unlawful possession of an alcoholic beverage OR MARIHUANA PRODUCT with the intent to consume by persons under the age of twenty-one years. 1. Except as hereinafter provided, no person under the age of twenty-one years shall possess any alcoholic beverage OR MARIHUANA PRODUCT, as defined in this chapter, with the intent to consume such beverage OR MARIHUANA PRODUCT.

2. A person under the age of twenty-one years may possess any alcoholic beverage OR MARIHUANA PRODUCT with intent to consume if the alcoholic beverage OR MARIHUANA PRODUCT is given:

(a) to a person who is a student in a curriculum licensed or registered by the state education department and the student is required to taste or imbibe alcoholic beverages OR MARIHUANA PRODUCTS in on-campus or off-campus courses which are a part of the required curriculum, provided such alcoholic beverages OR MARIHUANA PRODUCTS are used only for instructional purposes during class conducted pursuant to such curriculum; or

(b) to the person under twenty-one years of age by that person's parent or guardian.

3. Any person who unlawfully possesses an alcoholic beverage OR MARIHUANA PRODUCT with intent to consume may be summoned before and examined by a court having jurisdiction of that charge; provided, however, that nothing contained herein shall authorize, or be construed to authorize,
a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law or a police officer as defined in subdivision thirty-four of section 1.20 of such law to arrest a person who unlawfully possesses an alcoholic beverage OR MARIHUANA PRODUCT with intent to consume. If a determination is made sustaining such charge the court may impose a fine not exceeding fifty dollars and/or completion of an alcohol OR DRUG awareness program established pursuant to section 19.25 of the mental hygiene law and/or an appropriate amount of community service not to exceed thirty hours.

4. No such determination shall operate as a disqualification of any such person subsequently to hold public office, public employment, or as a forfeiture of any right or privilege or to receive any license granted by public authority; and no such person shall be denominated a criminal by reason of such determination, nor shall such determination be deemed a conviction.

5. Whenever a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law or police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law shall observe a person under twenty-one years of age openly in possession of an alcoholic beverage OR MARIHUANA PRODUCT as defined in this chapter, with the intent to consume such beverage OR PRODUCT in violation of this section, said officer may seize the beverage OR PRODUCT, and shall deliver it to the custody of his or her department.

6. Any alcoholic beverage OR MARIHUANA PRODUCT seized in violation of this section is hereby declared a nuisance. The official to whom the beverage OR PRODUCT has been delivered shall, no earlier than three days following the return date for initial appearance on the summons, dispose of or destroy the alcoholic beverage OR MARIHUANA PRODUCT seized or cause it to be disposed of or destroyed. Any person claiming ownership of an alcoholic beverage OR MARIHUANA PRODUCT seized under this section may, on the initial return date of the summons or earlier on five days notice to the official or department in possession of the beverage OR PRODUCT, apply to the court for an order preventing the destruction or disposal of the alcoholic beverage OR MARIHUANA PRODUCT seized and ordering the return of that beverage OR PRODUCT. The court may order the beverage OR PRODUCT returned if it is determined that return of the beverage OR PRODUCT would be in the interest of justice or that the beverage OR PRODUCT was improperly seized.

§ 25. The alcoholic beverage control law is amended by adding a new section 65-e to read as follows:

§ 65-E. RESTRICTIONS ON PERSONAL CONSUMPTION OF MARIHUANA. 1. NOTHING IN SECTIONS 221.05 AND 221.05-A OF THE PENAL LAW SHALL BE CONSTRUED TO PERMIT ANY PERSON TO:

(A) SMOKE MARIHUANA IN PUBLIC;

(B) SMOKE MARIHUANA PRODUCTS IN A LOCATION WHERE SMOKING TOBACCO IS PROHIBITED PURSUANT TO SECTION THIRTEEN HUNDRED NINETY-NINE-O OF THE PUBLIC HEALTH LAW;

(C) POSSESS, SMOKE OR INGEST MARIHUANA PRODUCTS IN OR UPON THE GROUNDS OF ANY SCHOOL PROPERTY USED FOR SCHOOL PURPOSES WHICH IS OWNED BY OR LEASED TO ANY ELEMENTARY OR SECONDARY SCHOOL OR SCHOOL BOARD WHILE CHILDREN ARE PRESENT; OR

(D) SMOKE OR INGEST MARIHUANA PRODUCTS WHILE DRIVING, OPERATING A MOTOR VEHICLE, BOAT, VESSEL, AIRCRAFT, OR OTHER VEHICLE USED FOR TRANSPORTATION.

2. FOR PURPOSES OF THIS SECTION:
(A) "SMOKE" MEANS TO INHALE, EXHALE, BURN, OR CARRY ANY LIGHTED OR
HEATED DEVICE OR PIPE, OR ANY OTHER LIGHTED OR HEATED MARIHUANA OR
CONCENTRATED CANNABIS PRODUCT INTENDED FOR INHALATION, WHETHER NATURAL
OR SYNTHETIC, IN ANY MANNER OR IN ANY FORM.
(B) "SMOKE" DOES NOT INCLUDE THE USE OF AN ELECTRONIC SMOKING DEVICE
THAT CREATES AN AEROSOL OR VAPOR, UNLESS LOCAL OR STATE STATUTES EXTEND
PROHIBITIONS ON SMOKING TO ELECTRONIC SMOKING DEVICES.
3. VIOLATIONS OF THE RESTRICTIONS UNDER THIS SECTION ARE SUBJECT TO A
FINE NOT EXCEEDING TWENTY-FIVE DOLLARS OR AN APPROPRIATE AMOUNT OF
COMMUNITY SERVICE NOT TO EXCEED TWENTY HOURS.
§ 26. Section 140 of the alcoholic beverage control law, as amended by
chapter 810 of the laws of 1981, is amended to read as follows:
§ 140. Applicability of chapter before local option. Until such time
as it shall become unlawful to sell alcoholic beverages OR MARIHUANA
PRODUCTS in any town or city by the vote of the voters in such town or
city in the manner provided in this article, all of the provisions of
this chapter shall apply throughout the entire state. This article shall
not apply to the Whiteface mountain ski center, owned by the state and
located in the town of Wilmington, county of Essex.
§ 27. Section 141 of the alcoholic beverage control law, as amended by
chapter 319 of the laws of 2007, is amended to read as follows:
§ 141. Local option for towns. 1. Not less than sixty days nor more
than seventy-five days before the general election in any town at which
the submission of the questions hereinafter stated is authorized by this
article, a petition signed by electors of the town to a number amounting
to twenty-five per centum of the votes cast in the town for governor at
the then last preceding gubernatorial election, acknowledged by the
signers or authenticated by witnesses as provided in the election law in
respect of a nominating petition, requesting the submission at such
election to the electors of the town of one or more of the following
questions, may be filed with the town clerk:
Question 1. Tavern alcoholic beverage license. Shall a person be
allowed to obtain a license to operate a tavern with a limited-service
menu (sandwiches, salads, soups, etc.) which permits the tavern operator
to sell alcoholic beverages for a customer to drink while the customer
is within the tavern. In addition, unopened containers of beer (such as
six-packs and kegs) may be sold "to go" for the customer to open and
drink at another location (such as, for example, at his home)?
Question 2. Restaurant alcoholic beverage license. Shall the operator
of a full-service restaurant be allowed to obtain a license which
permits the restaurant operator to sell alcoholic beverages for a
customer to drink while the customer is within the restaurant. In addi-
tion, unopened containers of beer (such as six-packs and kegs) may be
sold "to go" for the customer to open and drink at another location
(such as, for example, at his home)?
Question 3. Year-round hotel alcoholic beverage license. Shall the
operator of a year-round hotel with a full-service restaurant be allowed
to obtain a license which permits the year-round hotel to sell alcoholic
beverages for a customer to drink while the customer is within the
hotel. In addition, unopened containers of beer (such as six-packs and
kegs) may be sold "to go" for the customer to open and drink at another
location (such as, for example, at his home)?
Question 4. Summer hotel alcoholic beverage license. Shall the opera-
tor of a summer hotel with a full-service restaurant, open for business
only within the period from May first to October thirty-first in each
year, be allowed to obtain a license which permits the summer hotel to
sell alcoholic beverages for a customer to drink while the customer is within the hotel. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)?

Question 5. Retail package liquor or wine store license. Shall a person be allowed to obtain a license to operate a retail package liquor-and-wine or wine-without-liquor store, to sell "to go" unopened bottles of liquor or wine to a customer to be taken from the store for the customer to open and drink at another location (such as, for example, at his home)?

Question 6. Off-premises beer and wine cooler license. Shall the operator of a grocery store, drugstore or supply ship operating in the harbors of Lake Erie be allowed to obtain a license which permits the operator to sell "to go" unopened containers of beer (such as six-packs and kegs) and wine coolers with not more than 6% alcohol to a customer to be taken from the store for the customer to open and drink at another location (such as, for example, at his home)?

Question 7. Baseball park, racetrack, athletic field or stadium license. Shall a person be allowed to obtain a license which permits the sale of beer for a patron's consumption while the patron is within a baseball park, racetrack, or other athletic field or stadium where admission fees are charged?

QUESTION 8. MARIHUANA RETAILER LICENSE. SHALL A PERSON BE ALLOWED TO OBTAIN A LICENSE TO OPERATE A RETAIL MARIHUANA STORE, TO SELL UNOPENED MARIHUANA PRODUCTS TO A CUSTOMER TO BE TAKEN FROM THE STORE FOR THE CUSTOMER TO OPEN AND CONSUME AT ANOTHER LOCATION (SUCH AS, FOR EXAMPLE, AT HIS HOME)?

QUESTION 9. ON-PREMISES MARIHUANA RETAILER LICENSES. SHALL A PERSON BE ALLOWED TO OBTAIN A LICENSE TO OPERATE A FACILITY WHERE THE SERVICE OF FOOD IS ONLY INCIDENTAL AND PERMITS THE FACILITY OPERATOR TO SELL MARIHUANA PRODUCTS FOR A CUSTOMER TO CONSUME WHILE THE CUSTOMER IS WITHIN THE FACILITY?

2. Upon the due filing of such petition complying with the foregoing provisions, such questions shall be submitted in accordance therewith.

3. The town clerk shall, within five days from the filing of such petition in his office, prepare and file in the office of the board of elections, as defined by the election law, of the county, a certified copy of such petition. Such questions may be submitted only at the time of a general election. At least ten days before such general election, the board of elections shall cause to be printed and posted in at least four public places in such town, a notice of the fact that all of the local option questions will be voted on at such general election; and the said notice shall also be published at least five days before the vote is to be taken once in a newspaper published in the county in which such town is situated, which shall be a newspaper published in the town, if there be one. Whenever such questions are to be submitted under the provisions of this article the board of elections shall cause the proper ballot labels to be printed and placed on all voting machines used in the town in which such questions are to be submitted, in the form prescribed by the election law in respect of other propositions or questions, upon the face of which shall be printed in full the said questions. Any elector qualified to vote for state officers shall be entitled to vote upon such local option questions. As soon as the election shall be held, a return of the votes cast and counted shall be made as provided by law and the returns canvassed by the inspectors of election. If a majority of the votes cast shall be in the negative on all or any
of the questions, no person shall, after such election, sell alcoholic
beverages OR MARIHUANA PRODUCTS in such town contrary to such vote or to
the provisions of this chapter; provided, however, that the result of
such vote shall not shorten the term for which any license may have been
lawfully issued under this chapter or affect the rights of the licensee
thereunder; and no person shall after such vote apply for or receive a
license to sell alcoholic beverages OR MARIHUANA PRODUCTS at retail in
such town contrary to such vote, until, by referendum as hereinafter
provided for, such sale shall again become lawful.

§ 28. Subdivision 3 of section 142 of the alcoholic beverage control
law is amended to read as follows:

3. If a majority of the votes cast shall be in the negative on any or
all of the questions, no person shall, after such election, sell alco-
holic beverages OR MARIHUANA PRODUCTS in such city contrary to such vote
or to the provisions of this chapter; provided, however, that the result
of such vote shall not shorten the term for which any license may have
been lawfully issued under this chapter or affect the rights of the
licensee thereunder; and no person shall after such vote apply for or
receive a license to sell alcoholic beverages OR MARIHUANA PRODUCTS at
retail in such city contrary to such vote, until, by referendum as here-
inafter provided for, such sale shall again become lawful.

§ 29. Subdivision 2 of section 147 of the alcoholic beverage control
law is amended to read as follows:

2. If at the time of any subsequent submission of such questions it
shall be lawful to sell alcoholic beverages OR MARIHUANA PRODUCTS and a
majority of the votes cast shall be in the negative on such questions,
then all of the provisions of this article applicable thereto shall
become effective.

§ 30. Article 11 and sections 160, 161, 162, 163 and 164 of the alco-
holic beverage control law, article 11 and sections 160, 161, 162 and
163 as renumbered by chapter 725 of the laws of 1954, are renumbered
article 12 and sections 200, 201, 202, 203, and 204.

§ 31. The alcoholic beverage control law is amended by adding a new
article 11 to read as follows:

ARTICLE 11
PROVISIONS RELATING TO MARIHUANA

SECTION 165. DEFINITIONS.

166. BUREAU OF MARIHUANA POLICY.

167. ADMINISTRATION OF THE BUREAU OF MARIHUANA POLICY.

168. AUTHORITY TO PROMULGATE RULES AND REGULATIONS.

169. LICENSES ISSUED.

170. LICENSING LIMITS.

171. ACTIONS TAKEN PURSUANT TO A VALID LICENSE ARE LAWFUL.

172. GENERAL PROHIBITIONS AND RESTRICTIONS.

173. CERTAIN OFFICIALS NOT TO BE INTERESTED IN THE MANUFACTURE
OR SALE OF MARIHUANA.

174. PROVISIONS GOVERNING INITIAL RULEMAKING.

175. PROVISIONS GOVERNING MARIHUANA PRODUCERS.

176. PROVISIONS GOVERNING PROCESSORS.

177. PROVISIONS GOVERNING MARIHUANA RETAILERS.

178. PROVISIONS GOVERNING MARIHUANA ON-SITE CONSUMPTION
LICENSES.

179. ADVERTISING AND FORMS FOR THE ISSUANCE OF LICENSES.

180. PACKAGING OF MARIHUANA PRODUCTS.

181. LABELING OF MARIHUANA PRODUCTS.

182. SEED TO SALE TRACKING.
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183. RENEWALS OF LICENSES AND PERMITS.
184. INFORMATION TO BE PROVIDED BY APPLICANTS.
185. NOTIFICATION TO TOWNS, CITIES OR VILLAGES.
186. LICENSES, PUBLICATION, GENERAL PROVISIONS.
187. REVOCATION OF LICENSES FOR CAUSE.
188. PROCEDURE FOR REVOCATION OR CANCELLATION.
189. DECISIONS OF THE BUREAU OF MARIHUANA POLICY AND REVIEW BY THE COURTS.
190. MINORITY AND WOMEN-OWNED BUSINESSES AND INCUBATOR PROGRAM.
191. DISPOSITION OF MONEYS RECEIVED FOR LICENSE FEES.
192. PERSONS FORBIDDEN TO TRAFFIC IN MARIHUANA.
193. SURRENDER OF LICENSE; NOTICE TO POLICE OFFICIALS.
194. PROTECTIONS FOR THE USE OF MARIHUANA.
195. DISCRIMINATION PROTECTIONS FOR THE USE OF MARIHUANA OR MEDICAL MARIHUANA.
196. EMPLOYMENT PROTECTIONS.
197. PROTECTIONS FOR PERSONS UNDER STATE SUPERVISION.
198. PROFESSIONAL AND MEDICAL RECORD KEEPING.

§ 165. DEFINITIONS. WHENEVER USED IN THIS CHAPTER, UNLESS THE CONTEXT REQUIRES OTHERWISE:
1. "APPLICANT" MEANS AN OWNER APPLYING FOR A LICENSE PURSUANT TO THIS ARTICLE.
2. "BUREAU" MEANS THE BUREAU OF MARIHUANA POLICY WITHIN THE AUTHORITY.
3. "COMMERCIAL MARIHUANA ACTIVITY" MEANS THE PRODUCTION, PROCESSING, POSSESSION, STORING, LABORATORY TESTING, PACKAGING, LABELING, TRANSPORTATION, DELIVERY, OR SALE OF MARIHUANA AND MARIHUANA PRODUCTS AS PROVIDED FOR IN THIS ARTICLE.
4. "CUSTOMER" MEANS A NATURAL PERSON TWENTY-ONE YEARS OF AGE OR OLDER.
5. "DELIVERY" MEANS A LICENSEE THAT DELIVERS RETAIL MARIHUANA AND MARIHUANA PRODUCTS TO CUSTOMERS. RETAILER LICENSEES AND MICROBUSINESS LICENSEES ARE PERMITTED TO DELIVER RETAIL MARIHUANA AND MARIHUANA PRODUCTS TO CUSTOMERS WITHOUT OBTAINING AN ADDITIONAL DISTRIBUTOR LICENSE.
6. "DISTRIBUTION" MEANS THE PROCUREMENT, SALE, AND TRANSPORT OF MARIHUANA AND MARIHUANA PRODUCTS BETWEEN ENTITIES LICENSED PURSUANT TO THIS ARTICLE.
7. "DISTRIBUTOR" MEANS A LICENSEE FOR THE DISTRIBUTION OF MARIHUANA AND MARIHUANA PRODUCTS BETWEEN ENTITIES LICENSED PURSUANT TO THIS ARTICLE. PRODUCER LICENSEES, PROCESSOR LICENSEES, AND MICROBUSINESS LICENSEES ARE PERMITTED TO DISTRIBUTE MARIHUANA AND MARIHUANA PRODUCTS BETWEEN ENTITIES LICENSED PURSUANT TO THIS ARTICLE WITHOUT OBTAINING AN ADDITIONAL DISTRIBUTOR LICENSE.
8. "LABELING" MEANS ANY LABEL OR OTHER WRITTEN, PRINTED, OR GRAPHIC MATTER UPON A MARIHUANA PRODUCT, OR UPON ITS CONTAINER OR WRAPPER, OR THAT ACCOMPANIES ANY MARIHUANA PRODUCT.
9. "LICENSE" MEANS A STATE LICENSE ISSUED UNDER THIS ARTICLE. EACH LICENSE ISSUED PURSUANT TO THIS ARTICLE CORRESPONDS TO A SINGLE PLACE OF BUSINESS.
10. "LICENSEE" MEANS ANY PERSON OR ENTITY HOLDING A LICENSE UNDER THIS ARTICLE.
FACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE MATURE STALKS (EXCEPT THE RESIN EXTRACTED THEREFROM), FIBER, OIL, OR CAKE, OR THE STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION. IT DOES NOT INCLUDE ALL PARTS OF THE PLANT CANNABIS SATIVA I., WHETHER GROWING OR NOT, HAVING NO MORE THAN THREE-TENTHS OF ONE PERCENT TETRAHYDROCANNABINOL (THC).

12. "MARIHUANA PRODUCTS" MEANS MARIHUANA, CONCENTRATED CANNABIS, AND MARIHUANA-INFUSED PRODUCTS.

13. "MARIHUANA-INFUSED PRODUCTS" MEANS PRODUCTS THAT CONTAIN MARIHUANA, OR CONCENTRATED CANNABIS AND ARE INTENDED FOR HUMAN USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

14. "MICROBUSINESS" MEANS A LICENSEE THAT MAY ACT AS A MARIHUANA PRODUCER FOR THE CULTIVATION OF MARIHUANA ON AN AREA LESS THAN TEN THOUSAND SQUARE FEET, A MARIHUANA PROCESSOR, AND A MARIHUANA RETAILER UNDER THIS ARTICLE, PROVIDED SUCH LICENSEE COMPLIES WITH ALL REQUIREMENTS IMPOSED BY THIS ARTICLE ON LICENSED PRODUCERS, PROCESSORS, AND RETAILERS TO THE EXTENT THE LICENSEE ENGAGES IN SUCH ACTIVITIES. A "MICROBUSINESS" MAY DISTRIBUTE MARIHUANA AND MARIHUANA PRODUCTS TO OTHER LICENSED MARIHUANA BUSINESSES AND MAY DELIVER MARIHUANA AND MARIHUANA PRODUCTS TO CUSTOMERS.

15. "NURSERY" MEANS A LICENSEE THAT PRODUCES ONLY CLONES, IMMATURE PLANTS, SEEDS, AND OTHER AGRICULTURAL PRODUCTS USED SPECIFICALLY FOR THE PLANTING, PROPAGATION, AND CULTIVATION OF MARIHUANA.

16. "ONSITE CONSUMPTION" MEANS A MARIHUANA RETAIL LICENSEE OR A MARIHUANA MICROBUSINESS THAT PERMITS THE CONSUMPTION OF MARIHUANA AND MARIHUANA PRODUCTS AT THE LICENSEE'S PLACE OF BUSINESS.

17. "OWNER" MEANS AN INDIVIDUAL WITH AN AGGREGATE OWNERSHIP INTEREST OF TWENTY PERCENT OR MORE IN A MARIHUANA BUSINESS LICENSED PURSUANT TO THIS ARTICLE, UNLESS SUCH INTEREST IS SOLELY A SECURITY, LIEN, OR ENCUMBRANCE, OR AN INDIVIDUAL THAT WILL BE PARTICIPATING IN THE DIRECTION, CONTROL, OR MANAGEMENT OF THE LICENSED MARIHUANA BUSINESS.

18. "PACKAGE" MEANS ANY CONTAINER OR RECEPTACLE USED FOR HOLDING MARIHUANA OR MARIHUANA PRODUCTS.

19. "PROCESSOR" MEANS A LICENSEE THAT COMPOUNDS, BLENDS, EXTRACTS, INFUSES, OR OTHERWISE MAKES OR PREPARES MARIHUANA PRODUCTS, BUT NOT THE PRODUCTION OF THE MARIHUANA CONTAINED IN THE MARIHUANA PRODUCT. A "PROCESSOR" MAY ALSO DISTRIBUTE MARIHUANA AND MARIHUANA PRODUCTS TO OTHER LICENSED MARIHUANA BUSINESSES.

20. "PRODUCER" MEANS A LICENSEE THAT PLANTS, GROWS, HARVESTS, DRIES, CURES, GRADES, OR TRIMS MARIHUANA. A "PRODUCER" MAY ALSO DISTRIBUTE MARIHUANA TO OTHER LICENSED MARIHUANA BUSINESSES.

21. "RETAILER" MEANS A LICENSEE THAT SELLS MARIHUANA OR MARIHUANA PRODUCTS DIRECTLY TO CUSTOMERS. A "RETAILER" MAY DELIVER MARIHUANA AND MARIHUANA PRODUCTS TO CUSTOMERS.

22. "TESTING FACILITY" MEANS A LICENSEE THAT TESTS MARIHUANA AND MARIHUANA PRODUCTS.

WHICH THEY WERE APPOINTED. UPON THE EXPIRATION OF SUCH RESPECTIVE TERMS THE SUCCESSORS OF SUCH CHAIRMAN AND MEMBERS SHALL BE APPOINTED TO SERVE FOR A TERM OF THREE YEARS EACH AND UNTIL THEIR SUCCESSORS HAVE BEEN APPOINTED AND QUALIFIED. THE COMMISSIONERS SHALL, WHEN PERFORMING THE WORK OF THE BUREAU, BE COMPENSATED AT A RATE OF TWO HUNDRED SIXTY DOLLARS PER DAY, TOGETHER WITH AN ALLOWANCE FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE DISCHARGE OF THEIR DUTIES.

§ 167. ADMINISTRATION OF THE BUREAU OF MARIHUANA POLICY. 1. THE BUREAU ESTABLISHED IN SECTION ONE HUNDRED SIXTY-SIX OF THIS ARTICLE SHALL HERETOFORE HAVE THE POWER, DUTY, PURPOSE, RESPONSIBILITY, AND JURISDICTION TO REGULATE COMMERCIAL MARIHUANA ACTIVITY AS PROVIDED IN THE MARIHUANA REGULATION AND TAXATION ACT.

2. THE BUREAU SHALL HAVE THE EXCLUSIVE AUTHORITY TO CREATE, ISSUE, RENEW, DISCIPLINE, SUSPEND, OR REVOKE LICENSES FOR COMMERCIAL MARIHUANA ACTIVITIES IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT.

(A) THE BUREAU SHALL CONSULT WITH THE DEPARTMENT OF AGRICULTURE AND MARKETS REGARDING RULES, REGULATIONS, AND LICENSES FOR THE CULTIVATION OF MARIHUANA.

(B) THE BUREAU SHALL NOTIFY THE PUBLIC OF ALL LICENSING RULES AND REGULATIONS PROMULGATED PURSUANT TO THE MARIHUANA REGULATION AND TAXATION ACT, WHICH SHALL INCLUDE INSTRUCTIONAL MATERIALS. IN ADDITION, THE BUREAU SHALL HOLD PUBLIC FORUMS IN ALL REGIONS OF THE STATE, AS DETERMINED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT, TO HELP THE PUBLIC UNDERSTAND AND NAVIGATE THE LICENSING PROCESS.

(C) THE BUREAU SHALL BEGIN ISSUING LICENSES NOT LATER THAN EIGHTEEN MONTHS FOLLOWING THE EFFECTIVE DATE OF THE MARIHUANA REGULATION AND TAXATION ACT.

(I) THE BUREAU SHALL BEGIN ACCEPTING APPLICATIONS NO MORE THAN FIFTEEN MONTHS FOLLOWING THE EFFECTIVE DATE OF THE MARIHUANA REGULATION AND TAXATION ACT.

(II) PURSUANT TO SECTION ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE, THE BUREAU SHALL NOTIFY ANY TOWN, CITY OR VILLAGE OF ANY APPLICATIONS FOR LICENSE.

(III) THE BUREAU SHALL ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE BUREAU FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO SECTION ONE HUNDRED SEVENTY-FOUR OF THIS ARTICLE OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT TOWN, CITY OR VILLAGE THAT THE APPLICANT IS NOT IN COMPLIANCE WITH SUCH REGULATIONS.

(D) THE BUREAU SHALL HAVE THE AUTHORITY TO COLLECT FEES IN CONNECTION WITH ACTIVITIES THEY REGULATE CONCERNING MARIHUANA PURSUANT TO SECTION ONE HUNDRED NINETY-ONE OF THIS ARTICLE.

3. (A) NOT LATER THAN TEN MONTHS FOLLOWING THE ENACTMENT OF THIS ARTICLE, EACH TOWN, CITY OR VILLAGE MAY ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE TOWN, CITY OR VILLAGE THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIHUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE TOWN, CITY OR VILLAGE AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE TOWN, CITY OR VILLAGE BECOME NECESSARY BECAUSE OF A FAILURE BY THE BUREAU TO ADOPT REGULATIONS PURSUANT TO SECTION ONE HUNDRED SEVENTY-FOUR OF THIS ARTICLE OR BECAUSE OF A FAILURE BY THE BUREAU TO PROCESS AND ISSUE LICENSES AS REQUIRED BY SUBDIVISION TWO OF THIS SECTION.

(B) A TOWN, CITY OR VILLAGE MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIHUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE
ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE MUNICIPALITY IN ACCORDANCE WITH PARAGRAPHS (C) AND (D) OF THIS SUBDIVISION, SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION, ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIHUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A TOWN, CITY OR VILLAGE IN ACCORDANCE WITH PARAGRAPH (D) OF THIS SUBDIVISION AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A MUNICIPALITY IN ACCORDANCE WITH PARAGRAPH (C) OR (D) OF THIS SUBDIVISION; AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIHUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH A TOWN, CITY OR VILLAGE. A TOWN, CITY OR VILLAGE MAY PROHIBIT THE OPERATION OF MARIHUANA PRODUCTION FACILITIES, MARIHUANA PROCESSING FACILITIES, MARIHUANA RETAIL STORES, MARIHUANA MICROBUSINESSES, OR MARIHUANA TESTING FACILITIES THROUGH THE ENACTMENT OF AN ORDINANCE.

(C) IF THE BUREAU DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH SUBDIVISION TWO AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE BUREAU HAS ADOPTED REGULATIONS PURSUANT TO SECTION ONE HUNDRED SEVENTY-FOUR OF THIS ARTICLE BUT HAS NOT ISSUED ANY LICENSES WITHIN EIGHTEEN MONTHS OF THE EFFECTIVE DATE OF THIS ARTICLE, FOR ANY TOWN, CITY OR VILLAGE ENACTING AN ORDINANCE PROVIDING FOR LOCAL PROCESSING OF APPLICATIONS, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE TOWN, CITY OR VILLAGE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, AND THE TOWN, CITY OR VILLAGE MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A TOWN, CITY OR VILLAGE ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE TOWN, CITY OR VILLAGE FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH THE ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE TOWN, CITY OR VILLAGE SHALL NOTIFY THE BUREAU IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A TOWN, CITY OR VILLAGE UNDER THIS PARAGRAPH, THE BUREAU SHALL FORWARD TO THE TOWN, CITY OR VILLAGE THE APPLICATION FEE PAID BY THE APPLICANT TO THE BUREAU UPON REQUEST BY THE TOWN, CITY OR VILLAGE. A LICENSE ISSUED BY A TOWN, CITY OR VILLAGE IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE BUREAU IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE BUREAU DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE TOWN, CITY OR VILLAGE OF A NEW APPLICATION SUBMITTED TO THE BUREAU PURSUANT TO SUBDIVISION TWO OF THIS SECTION. NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION FOUR HUNDRED ONE OF THE STATE ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(D) IF THE BUREAU DOES NOT ADOPT REGULATIONS REQUIRED BY SECTION ONE HUNDRED SEVENTY-FOUR OF THIS ARTICLE, AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A TOWN, CITY OR VILLAGE FIFTEEN MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE AND THE TOWN, CITY OR VILLAGE MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A TOWN, CITY OR VILLAGE ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT
TO PARAGRAPH (B) OF THIS SUBDIVISION IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE BUREAU IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A TOWN, CITY OR VILLAGE IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE BUREAU IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION AND THE LICENSEE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE BUREAU DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE BUREAU HAS NOT ADOPTED REGULATIONS REQUIRED BY SECTION ONE HUNDRED SEVENTY-FOUR OF THIS ARTICLE AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO SECTION ONE HUNDRED SEVENTY-FOUR OF THIS ARTICLE BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

4. THE BUREAU MAY LIMIT THE TOTAL AMOUNT OF MARIHUANA PRODUCED IN NEW YORK BASED ON THE DEMAND FOR MARIHUANA AND MARIHUANA PRODUCTS AND IN AN EFFORT TO REDUCE ILLICIT MARIHUANA MARKETS.

§ 168. AUTHORITY TO PROMULGATE RULES AND REGULATIONS. THE BUREAU SHALL PROMULGATE AND IMPLEMENT ALL RULES AND REGULATIONS AS IT DEEMS NECESSARY TO CARRY OUT THE REQUIREMENTS, PURPOSE AND INTENT OF THIS ARTICLE.

§ 169. LICENSES ISSUED. THE FOLLOWING KINDS OF LICENSES SHALL BE ISSUED BY THE BUREAU FOR THE MANUFACTURE, PRODUCTION, PROCESSING, TESTING, RETAIL SALE AND DELIVERY OF MARIHUANA:

1. MARIHUANA NURSERY LICENSE;
2. MARIHUANA PRODUCER LICENSE;
3. MARIHUANA PROCESSOR LICENSE;
4. MARIHUANA DISTRIBUTOR LICENSE;
5. MARIHUANA RETAILER LICENSE;
6. MARIHUANA MICROBUSINESS LICENSE;
7. MARIHUANA ON-SITE CONSUMPTION LICENSE;
8. MARIHUANA DELIVERY LICENSE;
9. MARIHUANA TESTING LICENSE; AND
10. ANY OTHER TYPE OF LICENSES ALLOWED BY THE BUREAU.

§ 170. LICENSING LIMITS. 1. ALL LICENSES ISSUED UNDER THIS ARTICLE SHALL BEAR A CLEAR DESIGNATION INDICATING THAT THE LICENSE IS FOR COMMERCIAL MARIHUANA ACTIVITY AS DISTINCT FROM MEDICAL MARIHUANA MANUFACTURED, PRODUCED AND SOLD FOR MEDICAL USE PURSUANT TO TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW.

2. AN OWNER OF A MARIHUANA RETAIL STORE SHALL NOT HOLD A LICENSE IN ANOTHER LICENSE CATEGORY OF SECTION ONE HUNDRED SIXTY-NINE OF THIS ARTICLE, SHALL NOT OWN OR HAVE OWNERSHIP INTEREST IN AN ENTITY LICENSED PURSUANT TO TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW, AND SHALL HOLD NOT MORE THAN THREE RETAIL LICENSES.

3. AN OWNER OF A MARIHUANA MICROBUSINESS SHALL NOT HOLD A LICENSE IN ANOTHER LICENSE CATEGORY OF SECTION ONE HUNDRED SIXTY-NINE OF THIS ARTICLE, SHALL NOT OWN OR HAVE OWNERSHIP INTEREST IN A FACILITY LICENSED PURSUANT TO TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW, AND SHALL HOLD NOT MORE THAN ONE MICROBUSINESS LICENSE.

4. AN OWNER OF A MARIHUANA TESTING FACILITY SHALL NOT HOLD A LICENSE IN ANOTHER LICENSE CATEGORY OF SECTION ONE HUNDRED SIXTY-NINE OF THIS ARTICLE AND SHALL NOT OWN OR HAVE OWNERSHIP INTEREST IN A FACILITY LICENSED PURSUANT TO TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW.

5. ONLY A MARIHUANA RETAIL LICENSEE MAY BE ISSUED AN ON-SITE CONSUMPTION LICENSE.
1. ONLY A MARIHUANA RETAIL LICENSEE, MARIHUANA MICROBUSINESS LICENSEE,  
2. OR MARIHUANA DELIVERY LICENSEE MAY BE PERMITTED TO DELIVER MARIHUANA  
3. DIRECTLY TO CUSTOMERS.

7. ONLY A MARIHUANA PRODUCER LICENSEE, MARIHUANA PROCESSOR LICENSEE,  
8. MARIHUANA MICROBUSINESS LICENSEE, OR MARIHUANA DISTRIBUTOR LICENSEE MAY  
9. DISTRIBUTE MARIHUANA AND MARIHUANA PRODUCTS TO OTHER LICENSED MARIHUANA  
10. BUSINESSES.

8. NO MARIHUANA DELIVERY OWNER MAY HOLD MORE THAN ONE MARIHUANA DELIV-
11. ERY LICENSE.

9. NO MARIHUANA DISTRIBUTOR OWNER MAY HOLD MORE THAN ONE MARIHUANA  
12. DISTRIBUTOR LICENSE.

10. THE BUREAU SHALL ISSUE A SERIES OF PRODUCER LICENSES DISTINGUISHED  
11. BY CANOPY SIZE AND TYPE OF LIGHTING USED, NATURAL/OUTOOR LIGHT, INDOOR  
12. LIGHT, OR MIXED-LIGHT.

11. NO MARIHUANA PRODUCER OWNER MAY HOLD MORE THAN ONE MARIHUANA  
13. PRODUCER AND ONE MARIHUANA PROCESSOR LICENSE.

12. NO MARIHUANA PROCESSOR OWNER MAY HOLD MORE THAN THREE MARIHUANA  
14. PROCESSOR LICENSES.

13. AN OWNER OF A MARIHUANA NURSERY MAY HOLD A MARIHUANA PRODUCER OR  
15. MARIHUANA PROCESSOR LICENSE BUT SHALL NOT HOLD ANOTHER LICENSE CATEGORY  
16. OF SECTION ONE HUNDRED SIXTY-NINE OF THIS ARTICLE, SHALL NOT OWN OR HAVE  
17. OWNERSHIP INTEREST IN A FACILITY LICENSED PURSUANT TO TITLE FIVE-A OF  
18. ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW, AND SHALL HOLD NOT MORE  
19. THAN ONE NURSERY LICENSE. LICENSING LIMITS IMPOSED BY SUBDIVISIONS ELEVEN  
20. AND TWELVE OF THIS SECTION SHALL APPLY.

§ 171. ACTIONS TAKEN PURSUANT TO A VALID LICENSE ARE LAWFUL. NO  
21. CONTRACTS RELATED TO THE OPERATION OF LICENSES UNDER THIS CHAPTER SHALL  
22. BE DEEMED UNENFORCEABLE ON THE BASIS THAT THE ACTIONS PERMITTED PURSUANT  
23. TO THE LICENSE ARE PROHIBITED BY FEDERAL LAW. THE FOLLOWING ACTIONS ARE  
24. NOT UNLAWFUL AS PROVIDED UNDER THIS CHAPTER, SHALL NOT BE AN OFFENSE  
25. UNDER ANY STATE OR LOCAL LAW, AND SHALL NOT RESULT IN ANY CIVIL FINE,  
26. SEIZURE, OR FORFEITURE OF ASSETS AGAINST ANY PERSON ACTING IN ACCORDANCE  
27. WITH THIS CHAPTER:

1. ACTIONS OF A LICENSEE, ITS EMPLOYEES, AND ITS AGENTS, AS PERMITTED  
28. BY THIS CHAPTER AND CONSISTENT WITH RULES AND REGULATIONS OF THE BUREAU,  
29. PURSUANT TO A VALID LICENSE ISSUED BY THE BUREAU.

2. ACTIONS OF THOSE WHO ALLOW PROPERTY TO BE USED BY A LICENSEE, ITS  
30. EMPLOYEES, AND ITS AGENTS, AS PERMITTED BY THIS CHAPTER AND CONSISTENT  
31. WITH RULES AND REGULATIONS OF THE BUREAU, PURSUANT TO A VALID LICENSE  
32. ISSUED BY THE BUREAU.

3. ACTIONS OF ANY PERSON OR ENTITY, THEIR EMPLOYEES, OR THEIR AGENTS  
33. PROVIDING A SERVICE TO A LICENSEE OR POTENTIAL LICENSEE, AS PERMITTED BY  
34. THIS CHAPTER AND CONSISTENT WITH RULES AND REGULATIONS OF THE BUREAU,  
35. RELATING TO THE FORMATION OF A BUSINESS.

4. THE PURCHASE, POSSESSION, OR CONSUMPTION OF MARIHUANA, AS PERMITTED  
36. BY THIS CHAPTER AND CONSISTENT WITH RULES AND REGULATIONS OF THE BUREAU,  
37. OBTAINED FROM A VALIDLY LICENSED RETAILER.

§ 172. GENERAL PROHIBITIONS AND RESTRICTIONS. 1. NO MARIHUANA PRODUCTS  
38. MAY BE IMPORTED INTO OR EXPORTED FROM NEW YORK STATE.

2. NO PERSON MAY BE ISSUED A LICENSE UNDER SECTION ONE HUNDRED SIXTY-
39. NINE OF THIS ARTICLE IF THEY HAVE BEEN CONVICTED OF AN OFFENSE RELATED  
40. TO THE FUNCTIONS, OR DUTIES OF OWNING AND OPERATING A BUSINESS WITHIN  
41. THREE YEARS OF THE APPLICATION DATE, EXCEPT THAT IF THE BUREAU DETER-
42. MINES THAT THE OWNER OR LICENSEE IS OTHERWISE SUITABLE TO BE ISSUED A  
43. LICENSE, AND GRANTING THE LICENSE WOULD NOT COMPROMISE PUBLIC SAFETY,  
44. THE BUREAU SHALL CONDUCT A THOROUGH REVIEW OF THE NATURE OF THE CRIME,
1. CONVICTION, CIRCUMSTANCES, AND EVIDENCE OF REHABILITATION OF THE OWNER, AND SHALL EVALUATE THE SUITABILITY OF THE OWNER OR LICENSEE TO BE ISSUED A LICENSE BASED ON THE EVIDENCE FOUND THROUGH THE REVIEW. IN DETERMINING WHICH OFFENSES ARE SUBSTANTIALLY RELATED TO THE FUNCTIONS OR DUTIES OF OWNING AND OPERATING A BUSINESS, THE BUREAU SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(A) A FELONY CONVICTION INVOLVING FRAUD, MONEY LAUNDERING, FORGERY AND OTHER UNLAWFUL CONDUCT RELATED TO OWNING AND OPERATING A BUSINESS.

(B) A FELONY CONVICTION FOR HIRING, EMPLOYING, OR USING A MINOR IN TRANSPORTING, CARRYING, SELLING, GIVING AWAY, PREPARING FOR SALE, OR PEDDLING, ANY CONTROLLED SUBSTANCE TO A MINOR; OR SELLING, OFFERING TO SELL, FURNISHING, OFFERING TO FURNISH, ADMINISTERING, OR GIVING ANY CONTROLLED SUBSTANCE TO A MINOR.

3. NO LICENSE OF ANY KIND MAY BE ISSUED TO A PERSON UNDER THE AGE OF TWENTY-ONE YEARS, NOR SHALL ANY LICENSEE EMPLOY ANYONE UNDER THE AGE OF TWENTY-ONE YEARS.

§ 173. CERTAIN OFFICIALS NOT TO BE INTERESTED IN THE MANUFACTURE OR SALE OF MARIHUANA. 1. EXCEPT AS OTHERWISE PROVIDED IN SECTION ONE HUNDRED TWENTY-EIGHT-A OF THIS CHAPTER, IT SHALL BE UNLAWFUL FOR ANY POLICE COMMISSIONER, POLICE INSPECTOR, CAPTAIN, SERGEANT, ROUNDSMAN, PATROLMAN OR OTHER POLICE OFFICIAL OR SUBORDINATE OF ANY POLICE DEPARTMENT IN THE STATE, TO BE EITHER DIRECTLY OR INDIRECTLY INTERESTED IN THE MANUFACTURE OR SALE OF MARIHUANA OR TO OFFER FOR SALE, OR RECOMMEND TO ANY LICENSEE ANY MARIHUANA. A PERSON MAY NOT BE DENIED ANY LICENSE GRANTED UNDER THE PROVISIONS OF SECTIONS FIFTY-FOUR, FIFTY-FIVE, FIFTY-NINE, SIXTY-THREE, SIXTY-FOUR, SEVENTY-NINE, EIGHTY-ONE, OR ARTICLE SEVEN OF THIS CHAPTER SOLELY ON THE GROUNDS OF BEING THE SPOUSE OF A PUBLIC SERVANT DESCRIBED IN THIS SUBDIVISION. THE SOLICITATION OR RECOMMENDATION MADE TO ANY LICENSEE, TO PURCHASE ANY MARIHUANA BY ANY POLICE OFFICIAL OR SUBORDINATE AS DESCRIBED IN THIS SUBDIVISION, SHALL BE PRESUMPTIVE EVIDENCE OF THE INTEREST OF SUCH OFFICIAL OR SUBORDINATE IN THE MANUFACTURE OR SALE OF MARIHUANA.

2. NO ELECTIVE VILLAGE OFFICER SHALL BE SUBJECT TO THE LIMITATIONS SET FORTH IN SUBDIVISION ONE OF THIS SECTION UNLESS SUCH ELECTIVE VILLAGE OFFICER SHALL BE ASSIGNED DUTIES DIRECTLY RELATING TO THE OPERATION OR MANAGEMENT OF THE POLICE DEPARTMENT.

§ 174. PROVISIONS GOVERNING INITIAL RULEMAKING. 1. WITHIN TWO HUNDRED FORTY DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE BUREAU SHALL PERFORM SUCH ACTS, PRESCRIBE SUCH FORMS AND MAKE SUCH RULES, REGULATIONS AND ORDERS AS IT MAY DEEM NECESSARY OR PROPER TO FULLY EFFECTUATE THE PROVISIONS OF THIS ARTICLE.

2. THE BUREAU SHALL PROMULGATE NECESSARY RULES AND REGULATIONS GOVERNING THE LICENSING OF MARIHUANA PRODUCERS, MARIHUANA PROCESSORS, MARIHUANA RETAILERS AND MARIHUANA RETAILERS FOR CONSUMPTION ON-SITE, INCLUDING:

(A) PRESCRIBING FORMS AND ESTABLISHING APPLICATION, REINSTATEMENT, AND RENEWAL FEES;

(B) THE QUALIFICATIONS FOR LICENSURE;

(C) THE BOOKS AND RECORDS TO BE CREATED AND MAINTAINED BY LICENSEES, THE REPORTS TO BE MADE THEREON TO THE BUREAU, AND INSPECTION OF THE BOOKS AND RECORDS;

(D) METHODS OF PRODUCING, PROCESSING, AND PACKAGING MARIHUANA, MARIHUANA-INFUSED PRODUCTS, AND CONCENTRATED CANNABIS; CONDITIONS OF SANITATION, AND STANDARDS OF INGREDIENTS, QUALITY, AND IDENTITY OF MARIHUANA PRODUCTS PRODUCED, PROCESSED, PACKAGED, OR SOLD BY LICENSEES; AND
(E) SECURITY REQUIREMENTS FOR MARIHUANA RETAILERS AND PREMISES WHERE MARIHUANA PRODUCTS ARE PRODUCED OR PROCESSED, AND SAFETY PROTOCOLS FOR LICENSEES AND THEIR EMPLOYEES.

3. THE BUREAU SHALL PROMULGATE RULES AND REGULATIONS THAT ARE CALCULATED TO:
   (A) PREVENT THE DISTRIBUTION OF MARIHUANA TO PERSONS UNDER TWENTY-ONE YEARS OF AGE;
   (B) PREVENT THE REVENUE FROM THE SALE OF MARIHUANA FROM GOING TO ORGANIZED CRIMINAL ENTERPRISES AND CARTELS;
   (C) PREVENT THE DIVERSION OF MARIHUANA FROM THIS STATE TO OTHER STATES;
   (D) PREVENT MARIHUANA ACTIVITY THAT IS LEGAL UNDER STATE LAW FROM BEING USED AS A COVER OR PRETEXT FOR THE TRAFFICKING OF OTHER ILLEGAL DRUGS OR OTHER ILLEGAL ACTIVITY;
   (E) PREVENT VIOLENCE AND THE USE OF FIREARMS IN THE CULTIVATION AND DISTRIBUTION OF MARIHUANA;
   (F) PREVENT IMPAIRED DRIVING AND THE EXACERBATION OF OTHER ADVERSE PUBLIC HEALTH CONSEQUENCES ASSOCIATED WITH THE USE OF MARIHUANA;
   (G) PREVENT THE GROWING OF MARIHUANA ON PUBLIC LANDS AND THE ATTENDANT PUBLIC SAFETY AND ENVIRONMENTAL DANGERS POSED BY MARIHUANA PRODUCTION ON PUBLIC LANDS; AND
   (H) PREVENT THE POSSESSION AND USE OF MARIHUANA ON FEDERAL PROPERTY.

4. RULES AND REGULATIONS PROMULGATED BY THE BUREAU PURSUANT TO SUBDIVISION THREE OF THIS SECTION SHALL NOT PROHIBIT THE OPERATION OF MARIHUANA ESTABLISHMENTS EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE.

5. THE BUREAU, IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE AND MARKETS AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SHALL PROMULGATE NECESSARY RULES AND REGULATIONS GOVERNING THE SAFE PRODUCTION OF MARIHUANA, INCLUDING RESTRICTIONS ON THE USE OF PESTICIDES, INSECTICIDES AND HERBICIDES.

§ 175. PROVISIONS GOVERNING MARIHUANA PRODUCERS. 1. NO PRODUCER SHALL SELL, OR AGREE TO SELL OR DELIVER IN THE STATE ANY MARIHUANA PRODUCTS, AS THE CASE MAY BE, EXCEPT IN SEALED CONTAINERS CONTAINING QUANTITIES IN ACCORDANCE WITH SIZE STANDARDS PURSUANT TO RULES ADOPTED BY THE BUREAU. SUCH CONTAINERS SHALL HAVE AFFIXED THERETO SUCH LABELS AS MAY BE REQUIRED BY THE RULES OF THE BUREAU, TOGETHER WITH ALL NECESSARY NEW YORK STATE EXCISE TAX STAMPS, AS REQUIRED BY LAW.

2. NO PRODUCER SHALL DELIVER ANY MARIHUANA PRODUCTS, EXCEPT IN VEHICLES OWNED AND OPERATED BY SUCH PRODUCER, OR HIRED AND OPERATED BY SUCH PRODUCER FROM A TRUCKING OR TRANSPORTATION COMPANY REGISTERED WITH THE BUREAU, AND SHALL ONLY MAKE DELIVERIES AT THE LICENSED PREMISES OF THE PURCHASER.

4. NO PRODUCER SHALL FURNISH OR CAUSE TO BE FURNISHED TO ANY LICENSEE, ANY EXTERIOR OR INTERIOR SIGN, PRINTED, PAINTED, ELECTRIC OR OTHERWISE, EXCEPT AS AUTHORIZED BY THE BUREAU. THE BUREAU MAY MAKE SUCH RULES AS IT DEEMS NECESSARY TO CARRY OUT THE PURPOSE AND INTENT OF THIS SUBDIVISION.

§ 176. PROVISIONS GOVERNING PROCESSORS. 1. NO PROCESSOR SHALL BE ENGAGED IN ANY OTHER BUSINESS ON THE PREMISES TO BE LICENSED; EXCEPT THAT NOTHING CONTAINED IN THIS CHAPTER SHALL PREVENT A MARIHUANA PRODUCER AND A MARIHUANA PROCESSOR FROM OPERATING ON THE SAME PREMISES AND FROM A PERSON HOLDING BOTH LICENSES.

2. NO PROCESSOR SHALL SELL, OR AGREE TO SELL OR DELIVER IN THE STATE ANY MARIHUANA PRODUCTS, EXCEPT IN A SEALED PACKAGE CONTAINING QUANTITIES IN ACCORDANCE WITH SIZE STANDARDS PURSUANT TO RULES ADOPTED BY THE BUREAU. SUCH CONTAINERS SHALL HAVE AFFIXED THERETO SUCH LABELS AS MAY BE REQUIRED BY THE RULES OF THE BUREAU, TOGETHER WITH ALL NECESSARY NEW YORK STATE EXCISE TAX STAMPS, AS REQUIRED BY LAW.

3. NO PROCESSOR SHALL DELIVER ANY PRODUCTS, EXCEPT IN VEHICLES OWNED AND OPERATED BY SUCH PROCESSOR, OR HIRED AND OPERATED BY SUCH PROCESSOR FROM A TRUCKING OR TRANSPORTATION COMPANY REGISTERED WITH THE BUREAU, AND SHALL ONLY MAKE DELIVERIES AT THE LICENSED PREMISES OF THE PURCHASER.


§ 177. PROVISIONS GOVERNING MARIHUANA RETAILERS. 1. NO RETAIL LICENSE SHALL BE GRANTED FOR ANY PREMISES, UNLESS THE APPLICANT SHALL BE THE OWNER THEREOF, OR SHALL BE IN POSSESSION OF SAID PREMISES UNDER A LEASE, MANAGEMENT AGREEMENT OR OTHER AGREEMENT GIVING THE APPLICANT CONTROL OVER THE PREMISES, IN WRITING, FOR A TERM NOT LESS THAN THE LICENSE PERIOD.

2. NO PREMISES SHALL BE LICENSED TO SELL MARIHUANA PRODUCTS, UNLESS SAID PREMISES SHALL BE LOCATED IN A STORE, THE PRINCIPAL ENTRANCE TO WHICH SHALL BE FROM THE STREET LEVEL AND LOCATED ON A PUBLIC THOROUGHFARE IN PREMISES WHICH MAY BE OCCUPIED, OPERATED OR CONDUCTED FOR BUSINESS, TRADE OR INDUSTRY OR ON AN ARCADE OR SUB-SURFACE THOROUGHFARE LEADING TO A RAILROAD TERMINAL. THERE MAY BE NOT MORE THAN ONE ADDITIONAL ENTRANCE WHICH SHALL BE FROM THE STREET LEVEL AND LOCATED ON AND GIVING ACCESS TO AND FROM A PUBLIC OR PRIVATE PARKING LOT OR PARKING AREA HAVING SPACE FOR NOT LESS THAN FIVE AUTOMOBILES.

3. NO MARIHUANA RETAIL LICENSE SHALL BE GRANTED FOR ANY PREMISES WHICH A LICENSE WOULD NOT BE ALLOWED TO SELL AT RETAIL FOR CONSUMPTION OF ALCOHOL OFF THE PREMISES BASED ON ITS PROXIMITY TO A BUILDING OCCUPIED
EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER.

4. NO MARIHUANA RETAIL LICENSEE SHALL OFFER FOR SALE ANY MARIHUANA PRODUCTS IN ANY OTHER CONTAINER, EXCEPT IN THE ORIGINAL SEALED PACKAGE, AS RECEIVED FROM THE PRODUCER, DISTRIBUTOR OR PROCESSOR. SUCH CONTAINERS SHALL HAVE AFFIXED THERETO SUCH LABELS AS MAY BE REQUIRED BY THE RULES OF THE BUREAU, TOGETHER WITH ALL NEW YORK STATE EXCISE TAX STAMPS, AS REQUIRED BY LAW. SUCH CONTAINERS SHALL NOT BE OPENED NOR ITS CONTENTS CONSUMED ON THE PREMISES WHERE SOLD.

5. NO MARIHUANA RETAIL LICENSEE SHALL SELL OR TRANSFER MARIHUANA PRODUCTS TO ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS.

6. NO MARIHUANA RETAIL LICENSEE SHALL SELL ALCOHOLIC BEVERAGES ON THE SAME PREMISES WHERE MARIHUANA PRODUCTS ARE SOLD.

7. NO SIGN OF ANY KIND PRINTED, PAINTED OR ELECTRIC, ADVERTISING ANY BRAND SHALL BE PERMITTED ON THE EXTERIOR OR INTERIOR OF SUCH PREMISES, EXCEPT BY PERMISSION OF THE BUREAU.

8. NO RETAIL LICENSEE SHALL DELIVER ANY MARIHUANA PRODUCTS EXCEPT IN VEHICLES OWNED AND OPERATED BY SUCH LICENSEE, OR HIRED AND OPERATED BY SUCH LICENSEE FROM A TRUCKING OR TRANSPORTATION COMPANY REGISTERED WITH THE BUREAU, AND SHALL ONLY MAKE SUCH DELIVERIES AT THE PREMISES OF THE PURCHASER.

9. NO RETAIL LICENSEE SHALL KEEP OR PERMIT TO BE KEPT UPON THE LICENSED PREMISES, ANY MARIHUANA PRODUCTS IN ANY UNSEALED CONTAINER.

10. NO PREMISES LICENSED AS A MARIHUANA RETAILER SHALL BE PERMITTED TO REMAIN OPEN DURING A TIME WHEN A PREMISES LICENSED TO SELL LIQUOR AND/OR WINE FOR OFF-PREMISES CONSUMPTION IS NOT PERMITTED TO REMAIN OPEN PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER.


12. ALL PREMISES LICENSED UNDER THIS SECTION SHALL BE SUBJECT TO INSPECTION BY ANY PEACE OFFICER DESCRIBED IN SUBDIVISION FOUR OF SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, OR POLICE OFFICER OR ANY DULY AUTHORIZED REPRESENTATIVE OF THE BUREAU, DURING THE HOURS WHEN THE SAID PREMISES ARE OPEN FOR THE TRANSACTION OF BUSINESS.

§ 178. PROVISIONS GOVERNING MARIHUANA ON-SITE CONSUMPTION LICENSES. 1. NO MARIHUANA RETAILER OR MICROBUSINESS SHALL BE GRANTED A MARIHUANA ON-SITE CONSUMPTION LICENSE FOR A PREMISES LOCATED IN WHOLE OR IN PART INSIDE THE BOUNDARIES OF ANY CITY, VILLAGE OR TOWN, UNLESS THE LOCAL LEGISLATIVE BODY OF SUCH CITY, VILLAGE OR TOWN, BY RESOLUTION, EXPRESSLY AUTHORIZES THE LICENSING OF SUCH FACILITIES IN SUCH CITY, VILLAGE OR TOWN. THE LOCAL LEGISLATIVE BODY MAY DIRECT AN APPROPRIATE OFFICER, BOARD OR BODY OF SUCH CITY, VILLAGE OR TOWN AS THE LOCAL LICENSING AUTHORITY TO AUTHORIZE INDIVIDUAL MARIHUANA FACILITY LICENSE APPLICATIONS. IN CITIES OF ONE MILLION OR MORE RESIDENTS, SHOULD THE LOCAL LEGISLATIVE BODY AUTHORIZE SUCH LICENSE, NO MARIHUANA RETAILER LICENSE FOR CONSUMPTION ON-SITE SHALL BE GRANTED UNLESS THE COMMUNITY BOARD ESTABLISHED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED OF THE NEW YORK
2. NO MARIHUANA RETAILER OR MICROBUSINESS SHALL BE GRANTED A MARIHUANA ON-SITE CONSUMPTION LICENSE FOR ANY PREMISES, UNLESS THE APPLICANT SHALL BE THE OWNER THEREOF, OR SHALL BE IN POSSESSION OF SAID PREMISES UNDER A LEASE, IN WRITING, FOR A TERM NOT LESS THAN THE LICENSE PERIOD EXCEPT, HOWEVER, THAT SUCH LICENSE MAY THEREAFTER BE RENewed WITHOUT THE REQUIREMENT OF A LEASE AS HEREIN PROVIDED. THIS SUBDIVISION SHALL NOT APPLY TO PREMISES LEASED FROM GOVERNMENT AGENCIES, AS DEFINED UNDER SUBDIVISION TWELVE-C OF SECTION THREE OF THIS CHAPTER; PROVIDED, HOWEVER, THAT THE APPROPRIATE ADMINISTRATOR OF SUCH GOVERNMENT AGENCY PROVIDES SOME FORM OF WRITTEN DOCUMENTATION REGARDING THE TERMS OF OCCUPANCY UNDER WHICH THE APPLICANT IS LEASING SAID PREMISES FROM THE GOVERNMENT AGENCY FOR PRESENTATION TO THE BUREAU AT THE TIME OF THE LICENSE APPLICATION. SUCH DOCUMENTATION SHALL INCLUDE THE TERMS OF OCCUPANCY BETWEEN THE APPLICANT AND THE GOVERNMENT AGENCY, INCLUDING, BUT NOT LIMITED TO, ANY SHORT-TERM LEASING AGREEMENTS OR WRITTEN OCCUPANCY AGREEMENTS.

3. NO MARIHUANA RETAILER OR MICROBUSINESS SHALL BE GRANTED A MARIHUANA ON-SITE CONSUMPTION LICENSE FOR ANY PREMISES WHERE A LICENSE WOULD NOT BE ALLOWED TO SELL AT RETAIL FOR CONSUMPTION OF ALCOHOL ON THE PREMISES BASED ON ITS PROXIMITY TO A BUILDING OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER.

4. THE BUREAU MAY CONSIDER ANY OR ALL OF THE FOLLOWING IN DETERMINING WHETHER PUBLIC CONVENIENCE AND ADVANTAGE AND THE PUBLIC INTEREST WILL BE PROMOTED BY THE GRANTING OF LICENSES AND PERMITS FOR A MARIHUANA ON-SITE CONSUMPTION LICENSE AT A PARTICULAR UNLICENSED LOCATION:
   (A) THE NUMBER, CLASSES AND CHARACTER OF LICENSES IN PROXIMITY TO THE LOCATION AND IN THE PARTICULAR TOWN, CITY OR VILLAGE OR SUBDIVISION THEREOF.
   (B) EVIDENCE THAT ALL NECESSARY LICENSES AND PERMITS HAVE BEEN OBTAINED FROM THE STATE AND ALL OTHER GOVERNING BODIES.
   (C) EFFECT OF THE GRANT OF THE LICENSE ON VEHICULAR TRAFFIC AND PARKING IN PROXIMITY TO THE LOCATION.
   (D) THE EXISTING NOISE LEVEL AT THE LOCATION AND ANY INCREASE IN NOISE LEVEL THAT WOULD BE GENERATED BY THE PROPOSED PREMISES.
   (E) ANY OTHER FACTORS SPECIFIED BY LAW OR REGULATION THAT ARE RELEVANT TO DETERMINE THE PUBLIC CONVENIENCE AND ADVANTAGE AND PUBLIC INTEREST OF THE COMMUNITY.

5. IF THE BUREAU SHALL DISAPPROVE AN APPLICATION FOR A LICENSE OR PERMIT, IT SHALL STATE AND FILE IN ITS OFFICES THE REASONS THEREFOR AND SHALL NOTIFY THE APPLICANT THEREOF. SUCH APPLICANT MAY THEREUPON APPLY TO THE BUREAU FOR A REVIEW OF SUCH ACTION IN A MANNER TO BE PRESCRIBED BY THE RULES OF THE BUREAU. A HEARING UPON NOTICE TO THE APPLICANT SHALL THEREUPON BE HELD BY THE BUREAU OR BY ONE OF ITS MEMBERS AT ITS OFFICE MOST CONVENIENTLY SITUATED TO THE OFFICE OF ITS DUTY AUTHORIZED REPRESENTATIVE IN A MANNER TO BE PRESCRIBED IN ITS RULES; AND ON SUCH HEARING PROOF MAY BE TAKEN BY ORAL TESTIMONY OR BY AFFIDAVIT RELATIVE THERETO. AFTER SUCH HEARING, IF THE BUREAU CONFIRMS SUCH DISAPPROVAL, IT SHALL ENDORSE SUCH APPLICATION ACCORDINGLY AND SHALL SEND NOTICE TO THE APPLICANT OF ITS ACTION IN SUCH FORM AS THE BUREAU MAY PRESCRIBE. IF THE BUREAU DOES NOT CONFIRM THE DISAPPROVAL ACTION IT MAY GRANT SUCH APPLICATION AND ISSUE SUCH LICENSE.

6. NO MARIHUANA ON-SITE CONSUMPTION LICENSEE, EXCEPT PERSONS OR CORPORATIONS OPERATING A HOTEL, AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION
THREE OF THIS CHAPTER, FOR EXCLUSIVE USE IN THE FURNISHING OF ROOM SERVICE IN THE MANNER PRESCRIBED BY RULE OR REGULATION OF THE BUREAU, SHALL KEEP UPON THE LICENSED PREMISES ANY MARIHUANA PRODUCTS, EXCEPT THOSE PURCHASED FROM A LICENSED PRODUCER, AND IN CONTAINERS APPROVED BY THE BUREAU. SUCH CONTAINERS SHALL HAVE AFFIXED THERETO SUCH LABELS AS MAY BE REQUIRED BY THE RULES OF THE BUREAU, TOGETHER WITH ALL NECESSARY EXCISE STAMPS AS REQUIRED BY LAW. NO MARIHUANA RETAIL LICENSEE FOR ON-SITE CONSUMPTION SHALL REUSE, REFILL, TAMPER WITH, ADULTERATE, DILUTE OR FORTIFY THE CONTENTS OF ANY CONTAINER OF MARIHUANA PRODUCTS AS RECEIVED FROM THE MANUFACTURER OR WHOLESALER.

7. NO MARIHUANA ON-SITE CONSUMPTION LICENSEE SHALL SELL, DELIVER OR GIVE AWAY, OR CAUSE OR PERMIT OR PROCECU TO BE SOLD, DELIVERED OR GIVEN AWAY ANY MARIHUANA FOR CONSUMPTION ON THE PREMISES WHERE SOLD IN A CONTAINER OR PACKAGE CONTAINING MORE THAN ONE GRAM OF MARIHUANA.

8. EXCEPT WHERE A PERMIT TO DO SO IS OBTAINED PURSUANT TO SECTION 405.10 OF THE PENAL LAW, NO MARIHUANA ON-SITE CONSUMPTION LICENSEE SHALL SUFFER, PERMIT, OR PROMOTE AN EVENT ON ITS PREMISES WHEREIN ANY PERSON SHALL USE, EXPLODE, OR CAUSE TO EXPLODE, ANY FIREWORKS OR OTHER PYROTECHNICS IN A BUILDING AS DEFINED IN PARAGRAPH E OF SUBDIVISION ONE OF SECTION 405.10 OF THE PENAL LAW, THAT IS COVERED BY SUCH LICENSE OR POSSESS SUCH FIREWORKS OR PYROTECHNICS FOR SUCH PURPOSE. IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A VIOLATION OF THIS SUBDIVISION SHALL CONSTITUTE AN ADEQUATE GROUND FOR INSTITUTING A PROCEEDING TO SUSPEND, CANCEL, OR REVOKE THE LICENSE OF THE VIOLATOR IN ACCORDANCE WITH THE APPLICABLE PROCEDURES SPECIFIED IN SECTION ONE HUNDRED NINETEEN OF THIS CHAPTER; PROVIDED HOWEVER, IF MORE THAN ONE LICENSEE IS PARTICIPATING IN A SINGLE EVENT, UPON APPROVAL BY THE BUREAU, ONLY ONE LICENSEE MUST OBTAIN SUCH PERMIT.

9. NO RESTAURANT AND NO PREMISES LICENSED TO SELL MARIHUANA PRODUCTS FOR ON-SITE CONSUMPTION UNDER PARAGRAPH (A) OF SUBDIVISION SIX OF SECTION SIXTY-FOUR-A OF THIS CHAPTER SHALL BE PERMITTED TO HAVE ANY OPENING OR MEANS OF ENTRANCE OR PASSAGeway FOR PERSONS OR THINGS BETWEEN THE LICENSED PREMISES AND ANY OTHER ROOM OR PLACE IN THE BUILDING CONTAINING THE LICENSED PREMISES, OR ANY ADJOINING OR ABUTTING PREMISES, UNLESS INGRESS AND EGRESS IS RESTRICTED BY AN EMPLOYEE, AGENT OF THE LICENSEE, OR OTHER APPROVED METHOD OF CONTROLLING ACCESS TO THE FACILITY, OR UNLESS SUCH PREMISES ARE A BONA FIDE RESTAURANT WITH SUCH ACCESS FOR PATRONS AND GUESTS FROM ANY PART OF SUCH BUILDING OR ADJOINING OR ABUTTING PREMISES AS SHALL SERVE PUBLIC CONVENIENCE IN A REASONABLE AND SUITABLE MANNER; OR UNLESS SUCH LICENSED PREMISES ARE IN A BUILDING OWNED OR OPERATED BY ANY TOWN, CITY, VILLAGE OR PUBLIC AUTHORITY OR AGENCY, IN A PARK OR OTHER SIMILAR PLACE OF PUBLIC ACCOMMODATION. ALL GLASS IN ANY WINDOW OR DOOR ON SAID LICENSED PREMISES SHALL BE CLEAR AND SHALL NOT BE OPAQUE, COLORED, STAINED OR FROSTED.

10. A VESSEL LICENSED TO SELL MARIHUANA PRODUCTS FOR ON-SITE CONSUMPTION SHALL NOT BE PERMITTED TO SELL ANY MARIHUANA PRODUCTS, WHILE SAID VESSEL IS MOORED TO A PIER OR DOCK, EXCEPT THAT VESSELS SAILING ON ESTABLISHED SCHEDULES SHALL BE PERMITTED TO SELL MARIHUANA PRODUCTS FOR A PERIOD OF THREE HOURS PRIOR TO THE REGULAR ADVERTISED SAILING TIME.

PRODUCTS MADE BY SUCH LICENSEE. THE BUREAU IS HEREBY AUTHORIZED TO
PROMULGATE RULES AND REGULATIONS PERMITTING AN ON-SITE LICENSEE OPERAT-
ing two or more premises separately licensed to sell marihuana products
for on-site consumption to inaugurate or retain in this state methods or
practices of centralized accounting, bookkeeping, control records,
reporting, billing, invoicing or payment respecting purchases, sales or
deliveries of marihuana products, or methods and practices of central-
ized receipt or storage of marihuana products within this state without
segregation or earmarking for any such separately licensed premises,
wherever such methods and practices assure the availability, at such
licensee's central or main office in this state, of data reasonably
needed for the enforcement of this chapter. Such records shall be avail-
able for inspection by any authorized representative of the bureau.

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

13. A marihuana on-site consumption licensee shall not provide mari-
huana products to any person under the age of twenty-one.

§ 179. Advertising and forms for the issuance of licenses. 1. The
bureau is hereby authorized to promulgate rules and regulations govern-
ing the advertising of marihuana producers, marihuana processors, mari-
huana retailers, and any marihuana related products or services.

2. The bureau shall promulgate explicit rules prohibiting advertising
that:

(A) Is false, deceptive, or misleading;
(B) Promotes overconsumption;
(C) Depicts consumption by children or other minors;
(D) Is designed in any way to appeal to children or other minors;
(E) Is within two hundred feet of the perimeter of a playground, child
care center, public park, library or school grounds;
(F) Is in public transit vehicles and stations;
(G) Is in the form of an unsolicited internet pop-up; or
(H) Is on publicly owned or operated property.

3. The bureau shall promulgate explicit rules prohibiting all market-
ing strategies and implementation including, but not limited to, brand-
ning, packaging, labeling, location of marihuana retailers and marihuana
microbusinesses, and advertisements that are designed to:

(A) Appeal to persons less then twenty-one years of age; or
(B) Disseminate false or misleading information to customers.

4. The bureau shall promulgate explicit rules requiring that:

(A) All advertisements and marketing accurately and legibly identify
the licensee responsible for its content; and
(B) Any broadcast, cable, radio, print and digital communications
advertisements only be placed where the audience is reasonably expected
to be twenty-one years of age or older, as determined by reliable,
up-to-date audience composition data.

§ 180. Packaging of marihuana products. 1. The bureau is hereby
authorized to promulgate rules and regulations governing the packaging
of marihuana products, sold or possessed for sale in New York state.

2. Such regulations shall include requiring that:

(A) Packaging meets requirements similar to the federal "poison
(B) All marihuana-infused products shall have a separate packaging for
each serving;
§ 181. LABELING OF MARIHUANA PRODUCTS. 1. THE BUREAU IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS GOVERNING THE LABELING AND OFFERING OF MARIHUANA PRODUCTS FOR SALE WITHIN THIS STATE.

2. SUCH RULES AND REGULATIONS SHALL BE CALCULATED TO: (A) PROHIBIT DECEPTION OF THE CONSUMER; (B) AFFORD ADEQUATE INFORMATION AS TO QUALITY AND IDENTITY OF THE PRODUCT; AND (C) ACHIEVE NATIONAL UNIFORMITY IN THIS BUSINESS.

3. THE BUREAU MAY SEEK THE ASSISTANCE OF THE DEPARTMENT OF HEALTH WHEN NECESSARY BEFORE PROMULGATING RULES AND REGULATIONS UNDER THIS SECTION.

4. SUCH REGULATIONS SHALL INCLUDE REQUIRING LABELS WARNING CONSUMERS OF ANY POTENTIAL IMPACT ON HUMAN HEALTH RESULTING FROM THE CONSUMPTION OF MARIHUANA PRODUCTS THAT SHALL BE AFFIXED TO THOSE PRODUCTS WHEN SOLD, IF SUCH LABELS ARE DEEMED WARRANTED BY THE BUREAU AFTER CONSULTATION WITH THE DEPARTMENT OF HEALTH.

5. ALL MARIHUANA AND MARIHUANA PRODUCT LABELS AND INSERTS SHALL INCLUDE THE FOLLOWING INFORMATION PROMINENTLY DISPLAYED IN A CLEAR AND LEGIBLE FASHION IN ACCORDANCE WITH THE REQUIREMENTS, INCLUDING FONT SIZE, PRESCRIBED BY THE BUREAU OR THE DEPARTMENT OF HEALTH: NOT LESS THAN 8 POINT FONT:

(A) MANUFACTURE DATE AND SOURCE;

(B) FOR PACKAGES CONTAINING ONLY DRIED FLOWER, THE NET WEIGHT OF MARIHUANA IN THE PACKAGE;

(C) IDENTIFICATION OF THE SOURCE AND DATE OF CULTIVATION, THE TYPE OF MARIHUANA OR MARIHUANA PRODUCT AND THE DATE OF MANUFACTURING AND PACKAGING;

(D) LIST OF PHARMACOLOGICALLY ACTIVE INGREDIENTS, INCLUDING, BUT NOT LIMITED TO, TETRAHYDROCANNABINOL (THC), CANNABIDIOL (CBD), AND OTHER CANNABINOID CONTENT, THE THC AND OTHER CANNABINOID AMOUNT IN MILLIGRAMS PER SERVING, SERVINGS PER PACKAGE, AND THE THC AND OTHER CANNABINOID AMOUNT IN MILLIGRAMS FOR THE PACKAGE TOTAL, AND THE POTENCY OF THE MARIHUANA OR MARIHUANA PRODUCT BY REFERENCE TO THE AMOUNT OF TETRAHYDROCANNABINOL AND CANNABIDIOL IN EACH SERVING;

(E) FOR MARIHUANA PRODUCTS, A LIST OF ALL INGREDIENTS AND DISCLOSURE OF NUTRITIONAL INFORMATION IN THE SAME MANNER AS THE FEDERAL NUTRITIONAL LABELING REQUIREMENTS IN 21 C.F.R. SECTION 101.9;

(F) A LIST OF ANY SOLVENTS, NONORGANIC PESTICIDES, HERBICIDES, AND FERTILIZERS THAT WERE USED IN THE CULTIVATION, PRODUCTION, AND MANUFACTURE OF SUCH MARIHUANA OR MARIHUANA PRODUCT;

(G) A WARNING IF NUTS OR OTHER KNOWN ALLERGENS ARE USED;

(H) INFORMATION ASSOCIATED WITH THE UNIQUE IDENTIFIER ISSUED BY THE BUREAU OF MARIHUANA POLICY;

(I) ANY OTHER REQUIREMENTS SET BY THE BUREAU OF MARIHUANA POLICY.

6. ONLY GENERIC FOOD NAMES MAY BE USED TO DESCRIBE THE INGREDIENTS IN EDIBLE MARIHUANA PRODUCTS.

7. SUCH RULES AND REGULATIONS SHALL ESTABLISH METHODS AND PROCEDURES FOR DETERMINING SERVING SIZES FOR MARIHUANA-INFUSED PRODUCTS, ACTIVE CANNABIS CONCENTRATION PER SERVING SIZE, AND NUMBER OF SERVINGS PER CONTAINER. SUCH REGULATIONS SHALL ALSO REQUIRE A NUTRITIONAL FACT PANEL THAT INCORPORATES DATA REGARDING SERVING SIZES AND POTENCY THEREOF.
§ 182. SEED TO SALE TRACKING. 1. NO LATER THAN FIFTEEN MONTHS FOLLOWING THE EFFECTIVE DATE OF THE MARIHUANA REGULATION AND TAXATION ACT, THE BUREAU SHALL ESTABLISH A SEED TO SALE TRACKING PROGRAM FOR REPORTING THE MOVEMENT OF MARIHUANA AND MARIHUANA PRODUCTS THROUGHOUT THE DISTRIBUTION CHAIN THAT UTILIZES A UNIQUE IDENTIFIER AND SECURE PACKAGING AND IS CAPABLE OF PROVIDING INFORMATION THAT CAPTURES, AT A MINIMUM, ALL OF THE FOLLOWING:

(A) THE LICENSEE RECEIVING THE PRODUCT;

(B) THE TRANSACTION DATE; AND

(C) THE PRODUCER FROM WHICH THE PRODUCT ORIGINATES, INCLUDING THE ASSOCIATED UNIQUE IDENTIFIER.

2. (A) THE BUREAU SHALL CREATE AN ELECTRONIC DATABASE CONTAINING THE ELECTRONIC SHIPPING MANIFESTS TO FACILITATE THE ADMINISTRATION OF THE SEED TO SALE PROGRAM TRACKING, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(B) THE QUANTITY, OR WEIGHT, AND VARIETY OF PRODUCTS SHIPPED;

(C) THE ESTIMATED TIMES OF DEPARTURE AND ARRIVAL;

(D) THE QUANTITY, OR WEIGHT, AND VARIETY OF PRODUCTS RECEIVED;

(E) THE ACTUAL TIME OF DEPARTURE AND ARRIVAL;

(F) A CATEGORIZATION OF THE PRODUCT; AND

(G) THE LICENSE NUMBER AND UNIQUE IDENTIFIER ISSUED BY THE BUREAU FOR ALL LICENSEES INVOLVED IN THE SHIPPING PROCESS, INCLUDING, BUT NOT LIMITED TO, PRODUCER, PROCESSOR, RETAILER, AND DELIVERY LICENSEES.

3. THE DATABASE SHALL BE DESIGNED TO FLAG IRREGULARITIES FOR THE BUREAU TO INVESTIGATE.

§ 183. RENEWALS OF LICENSES AND PERMITS. 1. EACH LICENSE AND PERMIT, ISSUED PURSUANT TO THIS ARTICLE MAY BE RENEWED UPON APPLICATION THEREFOR BY THE LICENSEE OR PERMITTEE AND THE PAYMENT OF THE ANNUAL FEE FOR SUCH LICENSE OR PERMIT AS PRESCRIBED BY THIS ARTICLE. IN THE CASE OF APPLICATIONS FOR RENEWALS, THE BUREAU MAY DISPENSE WITH THE REQUIREMENTS OF SUCH STATEMENTS AS IT DEEMS UNNECESSARY IN VIEW OF THOSE CONTAINED IN THE APPLICATION MADE FOR THE ORIGINAL LICENSE OR PERMIT, BUT IN ANY EVENT THE SUBMISSION OF PHOTOGRAPHS OF THE LICENSED PREMISES SHALL BE DISPENSED WITH, PROVIDED THE APPLICANT FOR SUCH RENEWAL SHALL FILE A STATEMENT WITH SUCH BUREAU TO THE EFFECT THAT THERE HAS BEEN NO ALTERATION OF SUCH PREMISES SINCE THE ORIGINAL LICENSE WAS ISSUED. THE BUREAU MAY MAKE SUCH RULES AS MAY BE NECESSARY NOT INCONSISTENT WITH THIS CHAPTER REGARDING APPLICATIONS FOR RENEWALS OF LICENSES AND PERMITS AND THE TIME FOR MAKING THE SAME. EACH APPLICANT MUST SUBMIT TO THE BUREAU DOCUMENTATION OF THE RACIAL, ETHNIC, AND GENDER DIVERSITY OF THE APPLICANT'S EMPLOYEES AND OWNERS PRIOR TO A LICENSE OR PERMIT BEING RENEWED.

2. THE BUREAU SHALL PROVIDE AN APPLICATION FOR RENEWAL OF A LICENSE ISSUED UNDER THIS ARTICLE NOT LESS THAN SIXTY DAYS PRIOR TO THE EXPIRATION OF THE CURRENT LICENSE.

§ 184. INFORMATION TO BE PROVIDED BY APPLICANTS. 1. THE FOLLOWING SHALL BE THE INFORMATION REQUIRED ON AN APPLICATION FOR A LICENSE OR PERMIT:
(A) A STATEMENT OF IDENTITY AS FOLLOWS:

(I) IF THE APPLICANT IS AN INDIVIDUAL, HIS OR HER NAME, DATE AND PLACE
OF BIRTH, CITIZENSHIP, PERMANENT HOME ADDRESS, TELEPHONE NUMBER AND
SOCIAL SECURITY NUMBER, AS WELL AS ANY OTHER NAMES BY WHICH HE OR SHE
HAS CONDUCTED A BUSINESS AT ANY TIME.

(II) IF THE APPLICANT IS A CORPORATION OR A LIMITED LIABILITY CORPO-
RATION, THE CORPORATE NAME OF THE APPLICANT, ITS PLACE OF INCORPORATION,
ITS MAIN BUSINESS ADDRESS (AND IF SUCH MAIN BUSINESS ADDRESS IS NOT
WITHIN THE STATE, THE ADDRESS OF ITS MAIN PLACE OF BUSINESS WITHIN THE
STATE), OTHER NAMES BY WHICH IT HAS BEEN KNOWN OR HAS CONDUCTED BUSINESS
AT ANY TIME, ITS TELEPHONE NUMBER, ITS FEDERAL EMPLOYER IDENTIFICATION
NUMBER, AND THE NAMES, AGES, CITIZENSHIP, AND PERMANENT HOME ADDRESSES
OF ITS DIRECTORS, OFFICERS AND ITS SHAREHOLDERS (EXCEPT THAT IF THERE BE
MORE THAN TEN SHAREHOLDERS THEN THOSE SHAREHOLDERS HOLDING TEN PERCENT
OR MORE OF ANY CLASS OF ITS SHARES).

(III) IF THE APPLICANT IS A PARTNERSHIP, ITS NAME, ITS MAIN BUSINESS
ADDRESS (AND IF SUCH MAIN BUSINESS ADDRESS IS NOT WITHIN THE STATE, THE
ADDRESS OF ITS MAIN PLACE OF BUSINESS WITHIN THE STATE), OTHER NAMES BY
WHICH IT HAS BEEN KNOWN OR HAS CONDUCTED BUSINESS AT ANY TIME, ITS TELE-
PHONE NUMBER, ITS FEDERAL EMPLOYER IDENTIFICATION NUMBER, AND THE NAMES,
AGES, CITIZENSHIP, AND PERMANENT HOME ADDRESSES OF EACH OF ITS PARTNERS.

(B) A STATEMENT IDENTIFYING THE STREET AND NUMBER OF THE PREMISES TO
BE LICENSED, IF THE PREMISES HAS A STREET AND NUMBER, AND OTHERWISE SUCH
DESCRIPTION AS WILL REASONABLY INDICATE THE TOWN, CITY OR VILLAGE THERE-
OF; PHOTOGRAPHS, DRAWINGS OR OTHER ITEMS RELATED TO THE APPEARANCE OF
THE INTERIOR OR EXTERIOR OF SUCH PREMISES, AND A FLOOR PLAN OF THE INTE-
RIOR, SHALL BE REQUIRED. THE APPLICANT SHALL ALSO STATE THE NATURE OF
HIS OR HER INTEREST IN THE PREMISES; AND THE NAME OF ANY OTHER PERSON
INTERESTED AS A PARTNER, JOINT VENTURER, INVESTOR OR LENDER WITH THE
APPLICANT EITHER IN THE PREMISES OR IN THE BUSINESS TO BE LICENSED.

(C) A DESCRIPTION OF ANY OTHER MARIHUANA LICENSE OR PERMIT UNDER THIS
ARTICLE, WITHIN THE PAST TEN YEARS, THE APPLICANT (INCLUDING ANY OFFI-
CERS, DIRECTORS, SHAREHOLDERS OR PARTNERS LISTED IN THE STATEMENT OF
IDENTITY UNDER PARAGRAPH (A) OF THIS SUBDIVISION OR THE SPOUSE OF ANY
SUCH PERSON) OR THE APPLICANT'S SPOUSE HELD OR APPLIED FOR.

(D) A DESCRIPTION OF THE APPLICANT'S PLAN TO ENSURE DIVERSITY AMONG
THE APPLICANT'S EMPLOYEES, INCLUDING STRATEGIES FOR ENSURING:

(I) GENDER DIVERSITY;

(II) RACIAL AND ETHNIC DIVERSITY THAT REFLECTS THE DEMOGRAPHICS WITHIN
THE TOWN, CITY OR VILLAGE IN WHICH THE APPLICANT'S PROPOSED BUSINESS
WILL BE LOCATED; AND

(III) THAT PERSONS WITH PRIOR CRIMINAL CONVICTIONS ARE NOT BARRED FROM
EMPLOYMENT.

(E) FOR AN APPLICANT WITH MORE THAN TWENTY-FIVE EMPLOYEES, A STATEMENT
THAT THE APPLICANT HAS ENTERED INTO A LABOR PEACE AGREEMENT WITH A BONA-
FIDE LABOR ORGANIZATION THAT IS ACTIVELY ENGAGED IN REPRESENTING OR
ATTEMPTING TO REPRESENT THE APPLICANT'S EMPLOYEES. THE MAINTENANCE OF
SUCH A LABOR PEACE AGREEMENT SHALL BE AN ONGOING MATERIAL CONDITION OF
CERTIFICATION.

(F) A STATEMENT THAT THE LOCATION AND LAYOUT OF THE PREMISES TO BE
LICENSED DOES NOT VIOLATE ANY REQUIREMENT OF THIS CHAPTER RELATING TO
LOCATION AND LAYOUT OF LICENSED PREMISES, WITH A COPY OF THE CERTIFICATE
OF OCCUPANCY FOR THE PREMISES.

(G) A STATEMENT THAT THE APPLICANT HAS CONTROL OF THE PREMISES TO BE
LICENSED BY OWNERSHIP OF A FEE INTEREST OR VIA A LEASEHOLD, MANAGEMENT
AGREEMENT, OR OTHER AGREEMENT GIVING THE APPLICANT CONTROL OVER THE
1. PREMISES, WITH A TERM AT LEAST AS LONG AS THE LICENSE FOR WHICH THE APPLICATION IS BEING MADE, OR BY A BINDING CONTRACT TO ACQUIRE THE SAME AND A STATEMENT OF IDENTITY UNDER PARAGRAPH (A) OF THIS SUBDIVISION FOR THE LESSOR OF ANY LEASEHOLD, MANAGER OF ANY MANAGEMENT AGREEMENT, OR OTHER AGREEMENT GIVING THE APPLICANT CONTROL OVER THE PREMISES, WITH A COPY OF THE LEASE, CONTRACT, MANAGEMENT AGREEMENT, OR OTHER AGREEMENT GIVING THE APPLICANT CONTROL OVER THE FOOD AND BEVERAGE AT THE PREMISES, OR DEED EVIDENCING FEE OWNERSHIP OF THE PREMISES.

2. A FINANCIAL STATEMENT ADEQUATE TO SHOW ALL PERSONS WHO, DIRECTLY OR INDIRECTLY HAVE AN ECONOMIC INTEREST IN THE ESTABLISHMENT OR ACQUISITION OF THE BUSINESS FOR WHICH THE LICENSE OR PERMIT APPLICATION IS BEING MADE, TO IDENTIFY THE SOURCES OF FUNDS TO BE APPLIED IN SUCH ESTABLISHMENT OR ACQUISITION, AND TO DESCRIBE THE TERMS AND CONDITIONS GOVERNING SUCH ESTABLISHMENT WITH COPIES OF SUCH FINANCIAL DOCUMENTS AS THE BUREAU MAY REASONABLY REQUIRE.

3. THE FINGERPRINTS OF THE APPLICANTS. FINGERPRINTS SUBMITTED BY THE APPLICANTS SHALL BE TRANSMITTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES AND MAY BE SUBMITTED TO THE FEDERAL BUREAU OF INVESTIGATION FOR STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS.

4. ALL LICENSE OR PERMIT APPLICATIONS SHALL BE SIGNED BY THE APPLICANT (IF AN INDIVIDUAL), BY A MANAGING PARTNER (IF A LIMITED LIABILITY CORPORATION), BY AN OFFICER (IF A CORPORATION), OR BY ALL PARTNERS (IF A PARTNERSHIP). EACH PERSON SIGNING SUCH APPLICATION SHALL VERIFY IT OR AFFIRM IT AS TRUE UNDER THE PENALTIES OF PERJURY.

5. ALL LICENSE OR PERMIT APPLICATIONS SHALL BE ACCOMPANIED BY A CHECK, DRAFT OR OTHER FORMS OF PAYMENT AS THE BUREAU MAY REQUIRE OR AUTHORIZE IN THE AMOUNT REQUIRED BY THIS ARTICLE FOR SUCH LICENSE OR PERMIT.

6. IF THERE BE ANY CHANGE, AFTER THE FILING OF THE APPLICATION OR THE GRANTING OF A LICENSE, IN ANY OF THE FACTS REQUIRED TO BE SET FORTH IN SUCH APPLICATION, A SUPPLEMENTAL STATEMENT GIVING NOTICE OF SUCH CHANGE, COST AND SOURCE OF MONEY INVOLVED IN THE CHANGE, DULY VERIFIED, SHALL BE FILED WITH THE BUREAU WITHIN TEN DAYS AFTER SUCH CHANGE. FAILURE TO DO SO SHALL, IF WILLFUL AND DELIBERATE, BE CAUSE FOR REVOCATION OF THE LICENSE.

5. IN GIVING ANY NOTICE, OR TAKING ANY ACTION IN REFERENCE TO A LICENSE OF A LICENSED PREMISES, THE BUREAU MAY RELY UPON THE INFORMATION FURNISHED IN SUCH APPLICATION AND IN ANY SUPPLEMENTAL STATEMENT CONNECTED THERewith, AND SUCH INFORMATION MAY BE PRESUMED TO BE CORRECT, AND SHALL BE BINDING UPON A LICENSEE OR LICENSED PREMISES AS IF CORRECT. ALL INFORMATION REQUIRED TO BE FURNISHED IN SUCH APPLICATION OR SUPPLEMENTAL STATEMENTS SHALL BE DEEMED MATERIAL IN ANY PROSECUTION FOR PERJURY, ANY PROCEEDING TO REVOKE, CANCEL OR SUSPEND ANY LICENSE, AND IN THE BUREAU'S DETERMINATION TO APPROVE OR DENY THE LICENSE.

6. THE BUREAU MAY IN ITS DISCRETION WAIVE THE SUBMISSION OF ANY CATEGORY OF INFORMATION DESCRIBED IN THIS SECTION FOR ANY CATEGORY OF LICENSE OR PERMIT, PROVIDED THAT IT SHALL NOT BE, EXCEPT FOR PARAGRAPHS (A) AND (D) OF SUBDIVISION ONE OF THIS SECTION, PERMITTED TO WAIVE THE REQUIREMENT FOR SUBMISSION OF ANY SUCH CATEGORY OF INFORMATION SOLELY FOR AN INDIVIDUAL APPLICANT OR APPLICANTS.

§ 185. NOTIFICATION TO TOWNS, CITIES OR VILLAGES. 1. NOT LESS THAN THIRTY DAYS BEFORE FILING ANY OF THE FOLLOWING APPLICATIONS, AN APPLICANT SHALL NOTIFY THE TOWN, CITY OR VILLAGE IN WHICH THE PREMISES IS LOCATED OF SUCH APPLICANT'S INTENT TO FILE SUCH AN APPLICATION FOR A:

(A) MARIHUANA PRODUCER LICENSE;

(B) MARIHUANA PROCESSOR LICENSE;

(C) MARIHUANA MICROBUSINESS LICENSE;
(D) MARIHUANA RETAILER LICENSE;
(E) MARIHUANA RETAILER LICENSE FOR ON-SITE CONSUMPTION;
(F) MARIHUANA DELIVERY LICENSE;
(G) MARIHUANA TESTING LICENSE; AND/OR
(H) ANY OTHER TYPE OF LICENSES ALLOWED BY THE BUREAU.

2. SUCH NOTIFICATION SHALL BE MADE TO THE CLERK OF THE VILLAGE, TOWN OR CITY, AS THE CASE MAY BE, WHEREIN THE PREMISES IS LOCATED. FOR PURPOSES OF THIS SECTION:
   (A) NOTIFICATION NEED ONLY BE GIVEN TO THE CLERK OF A VILLAGE WHEN THE PREMISES IS LOCATED WITHIN THE BOUNDARIES OF THE TOWN, CITY OR VILLAGE; AND
   (B) IN THE CITY OF NEW YORK, THE COMMUNITY BOARD ESTABLISHED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED OF THE NEW YORK CITY CHARTER WITH JURISDICTION OVER THE AREA IN WHICH THE PREMISES IS LOCATED SHALL BE CONSIDERED THE APPROPRIATE PUBLIC BODY TO WHICH NOTIFICATION SHALL BE GIVEN.

3. FOR PURPOSES OF THIS SECTION, "SUBSTANTIAL CORPORATE CHANGE" SHALL MEAN:
   (A) FOR A CORPORATION, A CHANGE OF EIGHTY PERCENT OR MORE OF THE OFFICERS AND/OR DIRECTORS, OR A TRANSFER OF EIGHTY PERCENT OR MORE OF STOCK OF SUCH CORPORATION, OR AN EXISTING STOCKHOLDER OBTAINING EIGHTY PERCENT OR MORE OF THE STOCK OF SUCH CORPORATION;
   (B) FOR A LIMITED LIABILITY COMPANY, A CHANGE OF EIGHTY PERCENT OR MORE OF THE MANAGING MEMBERS OF THE COMPANY, OR A TRANSFER OF EIGHTY PERCENT OR MORE OF OWNERSHIP INTEREST IN SAID COMPANY, OR AN EXISTING MEMBER OBTAINING A CUMULATIVE OF EIGHTY PERCENT OR MORE OF THE OWNERSHIP INTEREST IN SAID COMPANY; AND
   (C) FOR A PARTNERSHIP, A CHANGE OF EIGHTY PERCENT OR MORE OF THE PARTNERS, OR A TRANSFER OF EIGHTY PERCENT OR MORE OF OWNERSHIP INTEREST IN SAID PARTNERSHIP, OR AN EXISTING PARTNER OBTAINING A CUMULATIVE OF EIGHTY PERCENT OR MORE OF THE OWNERSHIP INTEREST IN SAID COMPANY.

4. SUCH NOTIFICATION SHALL BE MADE IN SUCH FORM AS SHALL BE PRESCRIBED BY THE RULES OF THE BUREAU.

5. A TOWN, CITY OR VILLAGE MAY EXPRESS AN OPINION FOR OR AGAINST THE GRANTING OF SUCH APPLICATION. ANY SUCH OPINION SHALL BE DEEMED PART OF THE RECORD UPON WHICH THE BUREAU MAKES ITS DETERMINATION TO GRANT OR DENY THE APPLICATION.

6. SUCH NOTIFICATION SHALL BE MADE BY: CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OVERNIGHT DELIVERY SERVICE WITH PROOF OF MAILING; OR PERSONAL SERVICE UPON THE OFFICES OF THE CLERK OR COMMUNITY BOARD.

7. THE BUREAU SHALL REQUIRE SUCH NOTIFICATION TO BE ON A STANDARDIZED FORM THAT CAN BE OBTAINED ON THE INTERNET OR FROM THE BUREAU AND SUCH NOTIFICATION TO INCLUDE:
   (A) THE TRADE NAME OR "DOING BUSINESS AS" NAME, IF ANY, OF THE ESTABLISHMENT;
   (B) THE FULL NAME OF THE APPLICANT;
   (C) THE STREET ADDRESS OF THE ESTABLISHMENT, INCLUDING THE FLOOR LOCATION OR ROOM NUMBER, IF APPLICABLE;
   (D) THE MAILING ADDRESS OF THE ESTABLISHMENT, IF DIFFERENT THAN THE STREET ADDRESS;
   (E) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE ATTORNEY OR REPRESENTATIVE OF THE APPLICANT, IF ANY;
   (F) A STATEMENT INDICATING WHETHER THE APPLICATION IS FOR:
      (I) A NEW ESTABLISHMENT;
      (II) A TRANSFER OF AN EXISTING LICENSED BUSINESS;
      (III) A RENEWAL OF AN EXISTING LICENSE; OR
      (IV) AN ALTERATION OF AN EXISTING LICENSED PREMISES;
(G) IF THE ESTABLISHMENT IS A TRANSFER OR PREVIOUSLY LICENSED PREMISES, THE NAME OF THE OLD ESTABLISHMENT AND SUCH ESTABLISHMENT'S LICENSE SERIAL NUMBER;
(H) IN THE CASE OF A RENEWAL OR ALTERATION APPLICATION, THE LICENSE SERIAL NUMBER OF THE APPLICANT; AND
(I) THE TYPE OF LICENSE.
§ 186. LICENSES, PUBLICATION, GENERAL PROVISIONS. 1. THE VARIOUS TYPES OF LICENSES ISSUED PURSUANT TO THIS ARTICLE SHALL BE DISTINCTIVE IN COLOR AND DESIGN SO AS TO BE READILY DISTINGUISHABLE FROM EACH OTHER.
2. NO LICENSE SHALL BE TRANSFERABLE OR ASSIGNABLE EXCEPT THAT NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE LICENSE OF A SOLE PROPRIETOR CONVERTING TO CORPORATE FORM, WHERE SUCH PROPRIETOR BECOMES THE SOLE STOCKHOLDER AND ONLY OFFICER AND DIRECTOR OF SUCH NEW CORPORATION, MAY BE TRANSFERRED TO THE SUBJECT CORPORATION IF ALL REQUIREMENTS OF THIS CHAPTER REMAIN THE SAME WITH RESPECT TO SUCH LICENSE AS TRANSFERRED AND, FURTHER, THE LICENSEE SHALL TRANSMIT TO THE BUREAU, WITHIN TEN DAYS OF THE TRANSFER OF LICENSE ALLOWABLE UNDER THIS SUBDIVISION, ON A FORM PRESCRIBED BY THE BUREAU, NOTIFICATION OF THE TRANSFER OF SUCH LICENSE.
3. NO LICENSE SHALL BE PLEDGED OR DEPOSITED AS COLLATERAL SECURITY FOR ANY LOAN OR UPON ANY OTHER CONDITION; AND ANY SUCH PLEDGE OR DEPOSIT, AND ANY CONTRACT PROVIDING THEREFOR, SHALL BE VOID.
4. LICENSES ISSUED UNDER THIS ARTICLE SHALL CONTAIN, IN ADDITION TO ANY FURTHER INFORMATION OR MATERIAL TO BE PRESCRIBED BY THE RULES OF THE BUREAU, THE FOLLOWING INFORMATION: (A) NAME OF PERSON TO WHOM LICENSE IS ISSUED; (B) KIND OF LICENSE AND WHAT KIND OF TRAFFIC IN MARIHUANA IS THEREBY PERMITTED; (C) DESCRIPTION BY STREET AND NUMBER, OR OTHERWISE, OF LICENSED PREMISES; AND (D) A STATEMENT IN SUBSTANCE THAT SUCH LICENSE SHALL NOT BE DEEMED A PROPERTY OR VESTED RIGHT, AND THAT IT MAY BE REVOKED AT ANY TIME PURSUANT TO LAW.
5. THERE SHALL BE PRINTED AND FURNISHED BY THE BUREAU TO EACH LICENSEE A STATEMENT OF THE CAUSES FOR WHICH LICENSES MAY BE REVOKED. SUCH STATEMENT SHALL BE PREPARED BY THE BUREAU AND DELIVERED TO THE LICENSEE WITH HIS OR HER LICENSE OR AS SOON THEREAFTER AS MAY BE PRACTICABLE. ANY AMENDMENTS THEREETO SHALL ALSO BE SENT BY THE BUREAU TO ALL LICENSEES AS SOON AS MAY BE PRACTICABLE AFTER SUCH AMENDMENTS. FAILURE TO SEND SUCH STATEMENTS OR CHANGES THEREIN, OR FAILURE TO RECEIVE THE SAME, OR ANY MISSTATEMENT OR ERROR CONTAINED IN SUCH STATEMENTS OR AMENDMENTS SHALL, HOWEVER, NOT BE AN EXCUSE OR JUSTIFICATION FOR ANY VIOLATION OF LAW, OR PREVENT, OR REMIT, OR DECREASE ANY PENALTY OR FORFEITURE THEREFOR.
6. BEFORE COMMENCING OR DOING ANY BUSINESS FOR THE TIME FOR WHICH A LICENSE HAS BEEN ISSUED SAID LICENSE SHALL BE ENCLOSED IN A SUITABLE WOOD OR METAL FRAME HAVING A CLEAR GLASS SPACE AND A SUBSTANTIAL WOOD OR METAL BACK SO THAT THE WHOLE OF SAID LICENSE MAY BE SEEN THEREIN, AND SHALL BE POSTED UP AND AT ALL TIMES DISPLAYED IN A CONSPICUOUS PLACE IN THE ROOM WHERE SUCH BUSINESS IS CARRIED ON, SO THAT ALL PERSONS VISITING SUCH PLACE MAY READILY SEE THE SAME. IT SHALL BE UNLAWFUL FOR ANY PERSON HOLDING A LICENSE TO POST SUCH LICENSE OR TO PERMIT SUCH LICENSE TO BE POSTED UPON PREMISES OTHER THAN THE PREMISES LICENSED, OR UPON PREMISES WHERE TRAFFIC IN MARIHUANA IS BEING CARRIED ON BY ANY PERSON OTHER THAN THE LICENSEE, OR KNOWINGLY TO DEFACE, DESTROY OR ALTER ANY SUCH LICENSE IN ANY RESPECT. WHENEVER A LICENSE SHALL BE LOST OR DESTROYED WITHOUT FAULT ON THE PART OF THE LICENSEE OR HIS OR HER AGENTS OR EMPLOYEES, A DUPLICATE LICENSE IN LIEU THEREOF MAY BE ISSUED BY THE BUREAU IN ITS DISCRETION AND IN ACCORDANCE WITH SUCH RULES AND REGULATIONS AND THE PAYMENT OF SUCH FEES, NOT EXCEEDING FIVE DOLLARS, AS IT MAY PRESCRIBE.
§ 187. Revocation of licenses for cause. 1. Any license or permit issued pursuant to this article may be revoked, cancelled, suspended and/or subjected to the imposition of a civil penalty for cause, and must be revoked for the following causes:

(A) Conviction of the licensee, permittee or his or her agent or employee for selling any illegal marihuana or marihuana products on the premises licensed.

(B) For transferring, assigning or hypothecating a license or permit.

2. Notwithstanding the issuance of a license or permit by way of renewal, the bureau may revoke, cancel or suspend such license or permit and/or may impose a civil penalty against any holder of such license or permit, as prescribed by this section and section one hundred nineteen of this chapter, for causes or violations occurring during the license period immediately preceding the issuance of such license or permit, and may recover, as provided in section one hundred twelve of this chapter, the penal sum of the bond on file during said period.

3. As used in this section, the term "for cause" shall also include the existence of a sustained and continuing pattern of noise, disturbance, misconduct, or disorder on or about the licensed premises, related to the operation of the premises or the conduct of its patrons, which adversely affects the health, welfare or safety of the inhabitants of the area in which such licensed premises are located.

4. The existence of a sustained and continuing pattern of noise, disturbance, misconduct, or disorder on or about the licensed premises, related to the operation of the premises or the conduct of its patrons, will be presumed upon the sixth incident reported to the bureau by a law enforcement agency of noise or disturbance or misconduct or disorder on or about the licensed premises or related to the operation of the premises or the conduct of its patrons, in any sixty day period, absent clear and convincing evidence of either fraudulent intent on the part of any complainant or a factual error with respect to the content of any report concerning such complaint relied upon by the bureau.

§ 188. Procedure for revocation or cancellation. 1. Any license or permit issued by the bureau pursuant to this article may be revoked, cancelled or suspended and/or be subjected to the imposition of a monetary penalty in the manner prescribed by this section.

2. The bureau may on its own initiative or on complaint of any person institute proceedings to revoke, cancel or suspend any retail license and may impose a civil penalty against the licensee after a hearing at which the licensee shall be given an opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed by the rules of the bureau.

§ 189. Decisions of the bureau of marihuana policy and review by the courts. Provisions of sections one hundred twenty, one hundred twenty-one and one hundred twenty-four of this chapter shall apply to marihuana licenses issued under this article.

§ 190. Minority and women-owned businesses and incubator program. The bureau shall:

1. Implement a social equity plan and actively promote racial, ethnic, and gender diversity when issuing licenses for marihuana related activities, including by prioritizing consideration of applications by applicants who qualify as a minority and women-owned business. Such qualifications shall be determined by the bureau.

2. The bureau shall create a social equity plan to promote diversity in ownership and employment in the marihuana industry and ensure inclusion of: (A) minority-owned businesses; (B) women-owned businesses; and
3. THE SOCIAL EQUITY PLAN SHALL CONSIDER ADDITIONAL CRITERIA IN ITS LICENSING DETERMINATIONS. UNDER THE SOCIAL EQUITY PLAN, EXTRA WEIGHT SHALL BE GIVEN TO APPLICATIONS THAT DEMONSTRATE THAT AN APPLICANT:

(A) IS A MEMBER OF A COMMUNITY GROUP THAT HAS BEEN DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF MARIJUANA PROHIBITION;

(B) HAS AN INCOME LOWER THAN EIGHTY PERCENT OF THE MEDIAN INCOME OF THE COUNTY IN WHICH THE APPLICANT RESIDES; AND

(C) WAS CONVICTED OF A MARIJUANA-RELATED OFFENSE PRIOR TO THE EFFECTIVE DATE OF THIS BILL.

4. THE BUREAU SHALL ALSO CREATE AN INCUBATOR PROGRAM TO PROVIDE DIRECT SUPPORT TO SOCIAL EQUITY APPLICANTS AFTER THEY HAVE BEEN GRANTED LICENSES. THE PROGRAM SHALL PROVIDE DIRECT SUPPORT IN THE FORM OF COUNSELING SERVICES, EDUCATION, SMALL BUSINESS COACHING, AND COMPLIANCE ASSISTANCE.

5. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) "MINORITY-OWNED BUSINESS" SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION THAT IS:

(I) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE MINORITY GROUP MEMBERS;

(II) AN ENTERPRISE IN WHICH SUCH MINORITY OWNERSHIP IS REAL, SUBSTANTIAL AND CONTINUING;

(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;

(IV) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND INDEPENDENTLY OWNED AND OPERATED;

(V) AN ENTERPRISE THAT IS A SMALL BUSINESS.

(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:

(I) BLACK PERSONS HAVING ORIGINS IN ANY OF THE BLACK AFRICAN RACIAL GROUPS;

(II) HISPANIC PERSONS OF MEXICAN, PUERTO RICAN, DOMINICAN, CUBAN, CENTRAL OR SOUTH AMERICAN OF EITHER INDIAN OR HISPANIC ORIGIN, REGARDLESS OF RACE;

(III) NATIVE AMERICAN OR ALASKAN NATIVE PERSONS HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLES OF NORTH AMERICA;

(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.

(C) "WOMEN-OWNED BUSINESS" SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION THAT IS:

(I) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE UNITED STATES CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE WOMEN;

(II) AN ENTERPRISE IN WHICH THE OWNERSHIP INTEREST OF SUCH WOMEN IS REAL, SUBSTANTIAL AND CONTINUING;

(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;

(IV) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND INDEPENDENTLY OWNED AND OPERATED;
(V) AN ENTERPRISE THAT IS A SMALL BUSINESS PURSUANT TO SUBDIVISION TWENTY OF THIS SECTION.

(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.

6. THE BUREAU SHALL ACTIVELY PROMOTE APPLICANTS THAT FOSTER RACIAL, ETHNIC, AND GENDER DIVERSITY IN THEIR WORKFORCE.

7. LICENSES ISSUED TO MINORITY AND WOMEN-OWNED BUSINESSES OR UNDER THE SOCIAL EQUITY PLAN SHALL NOT BE TRANSFERABLE EXCEPT TO QUALIFIED MINORITY AND WOMEN-OWNED BUSINESSES OR SOCIAL EQUITY APPLICANTS.

8. THE BUREAU SHALL COLLECT DEMOGRAPHIC DATA ON OWNERS AND EMPLOYEES IN THE MARIHUANA INDUSTRY AND SHALL ANNUALLY PUBLISH SUCH DATA.

$ 191. DISPOSITION OF MONEYS RECEIVED FOR LICENSE FEES. THE BUREAU SHALL ESTABLISH A SCALE OF APPLICATION, LICENSING, AND RENEWAL FEES, BASED UPON THE COST OF ENFORCING THIS ARTICLE AND THE SIZE OF THE MARIHUANA BUSINESS BEING LICENSED, AS FOLLOWS:

1. EACH LICENSING AUTHORITY SHALL CHARGE EACH LICENSEE A LICENSURE AND RENEWAL FEE, AS APPLICABLE. THE LICENSURE AND RENEWAL FEE SHALL BE CALCULATED TO COVER THE COSTS OF ADMINISTERING THIS ARTICLE. THE LICENSURE FEE MAY VARY DEPENDING UPON THE VARYING COSTS ASSOCIATED WITH ADMINISTERING THE VARIOUS REGULATORY REQUIREMENTS OF THIS ARTICLE AS THEY RELATE TO THE NATURE AND SCOPE OF THE DIFFERENT LICENSURE ACTIVITIES, BUT SHALL NOT EXCEED THE REASONABLE REGULATORY COSTS TO THE LICENSING AUTHORITY.

2. THE TOTAL FEES ASSESSED PURSUANT TO THIS ARTICLE SHALL BE SET AT AN AMOUNT THAT WILL FAIRLY AND PROPORTIONATELY GENERATE SUFFICIENT TOTAL REVENUE TO FULLY COVER THE TOTAL COSTS OF ADMINISTERING THIS ARTICLE.

3. ALL LICENSE FEES SHALL BE SET ON A SCALED BASIS BY THE BUREAU, DEPENDENT ON THE SIZE OF THE BUSINESS.

4. THE BUREAU SHALL DEPOSIT ALL FEES COLLECTED IN THE NEW YORK STATE MARIHUANA REVENUE FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-FF OF THE STATE FINANCE LAW.

$ 192. PERSONS FORBIDDEN TO TRAFFIC IN MARIHUANA. 1. THE FOLLOWING PERSONS ARE FORBIDDEN TO TRAFFIC IN MARIHUANA:

(A) A PERSON UNDER THE AGE OF TWENTY-ONE YEARS.

(B) A PERSON WHO IS NOT A CITIZEN OF THE UNITED STATES OR AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES.

(C) A CO-PARTNERSHIP OR A CORPORATION, UNLESS EACH MEMBER OF THE PARTNERSHIP, OR EACH OF THE PRINCIPAL OFFICERS AND DIRECTORS OF THE CORPORATION, IS A CITIZEN OF THE UNITED STATES OR AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES, NOT LESS THAN TWENTY-ONE YEARS OF AGE.

(D) (I) A PERSON WHO SHALL HAVE HAD ANY LICENSE ISSUED UNDER THIS CHAPTER REVOKED FOR CAUSE, UNTIL THE EXPIRATION OF TWO YEARS FROM THE DATE OF SUCH REVOCATION.

(II) A PERSON NOT LICENSED UNDER THE PROVISIONS OF THIS CHAPTER, WHO HAS BEEN CONVICTED OF A VIOLATION OF THIS CHAPTER, UNTIL THE EXPIRATION OF TWO YEARS FROM THE DATE OF SUCH CONVICTION.

(E) A CORPORATION OR CO-PARTNERSHIP, IF ANY OFFICER AND DIRECTOR OR ANY PARTNER, WHILE NOT LICENSED UNDER THE PROVISIONS OF THIS CHAPTER, HAS BEEN CONVICTED OF A VIOLATION OF THIS CHAPTER, OR HAS HAD A LICENSE ISSUED UNDER THIS CHAPTER REVOKED FOR CAUSE, UNTIL THE EXPIRATION OF TWO YEARS FROM THE DATE OF SUCH CONVICTION OR REVOCATION.

2. AN APPLICANT SHALL NOT BE DENIED A LICENSE UNDER THIS ARTICLE BASED SOLELY ON A CONVICTION FOR A VIOLATION OF ARTICLE TWO HUNDRED TWENTY OR SECTION 240.36 OF THE PENAL LAW, PRIOR TO THE DATE ARTICLE TWO HUNDRED TWENTY-ONE OF THE PENAL LAW TOOK EFFECT, OR A CONVICTION FOR A VIOLATION
§ 193. Surrender of license; notice to police officials. Within three days after a license shall have been revoked pursuant to this article, notice thereof shall be given to the licensee by mailing such notice addressed to him at the premises licensed. Notice shall also be mailed to the owner of the premises licensed. The holder of such license shall thereupon surrender same to the bureau. The mailing thereof by the licensee to the bureau by registered mail or insured parcel post shall be deemed sufficient compliance with this section. The bureau, immediately upon giving notice of revocation, shall serve a written notice thereof upon the commissioner of police, chief of police or chief police officer of the city or village in which the premises for which the revoked license was issued is situated, or upon the sheriff of the county or a constable of the town in case the license was issued for premises situated in a town and not within any city or village. Such notice shall include a statement of the number of such license, the name and place of residence of the holder thereof, the location of the licensed premises, and the date when such license was revoked. In case such license be not forthwith surrendered, the bureau shall issue a written demand for the surrender of such license and deliver said demand to the sheriff of the county in which the licensed premises are located, or to any representative of the bureau, and said sheriff or representative shall immediately take possession of such license and return the same to the bureau.

§ 194. Protections for the use of marihuana. Individuals and licensed entities shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business or occupational or professional licensing board or bureau, solely for conduct permitted under this article. For the avoidance of doubt, the appellate division of the supreme court of the state of New York, and any disciplinary or character and fitness committees established by them are occupational and professional licensing boards within the meaning of this section. State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the federal controlled substances act, 21, u.s.c. et seq., solely for actions consistent with this chapter, except as pursuant to a valid court order.

§ 195. Discrimination protections for the use of marihuana or medical marihuana. 1. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for conduct allowed under sections 221.05 and 221.05-A of the penal law or title five-A of article thirty-three of the public health law, except as exempted:
(A) if failing to do so would cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations;
(B) if the institution has adopted a code of conduct prohibiting marihuana use on the basis of religious belief;
(C) if a property is registered with the New York smoke-free housing registry, it is not required to permit the smoking of marihuana products on its premises.
2. For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of medical marihuana must be considered the equivalent of the use of any other medication under the direction of a practitioner and does not constitute the use of an
ILLICIT SUBSTANCE OR OTHERWISE DISQUALIFY A REGISTERED QUALIFYING PATIENT FROM MEDICAL CARE.

3. NO PERSON MAY BE DENIED CUSTODY OF OR VISITATION OR PARENTING TIME WITH A MINOR, AND THERE IS NO PRESUMPTION OF NEGLECT OR CHILD ENDANGERMENT FOR CONDUCT ALLOWED UNDER SECTIONS 221.05 AND 221.05-A OF THE PENAL LAW, UNLESS THE PERSON'S BEHAVIOR CREATES AN UNREASONABLE DANGER TO THE SAFETY OF THE MINOR AS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE. FOR THE PURPOSES OF THIS SECTION, AN "UNREASONABLE DANGER" DETERMINATION CANNOT BE BASED SOLELY ON WHETHER, WHEN, AND HOW OFTEN A PERSON USES MARIHUANA WITHOUT SEPARATE EVIDENCE OF HARM.

§ 196. EMPLOYMENT PROTECTIONS. 1. UNLESS AN EMPLOYER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE LAWFUL USE OF MARIHUANA HAS IMPAIRED THE EMPLOYEE'S ABILITY TO PERFORM THE EMPLOYEE'S JOB RESPONSIBILITIES, IT SHALL BE UNLAWFUL TO TAKE ANY ADVERSE EMPLOYMENT ACTION AGAINST AN EMPLOYEE BASED ON EITHER:
   (A) CONDUCT ALLOWED UNDER SECTIONS 221.05 AND 221.05-A OF THE PENAL LAW; OR
   (B) THE EMPLOYEE'S POSITIVE DRUG TEST FOR MARIHUANA COMPONENTS OR METABOLITES.

2. FOR THE PURPOSES OF THIS SECTION, AN EMPLOYER MAY CONSIDER AN EMPLOYEE'S ABILITY TO PERFORM THE EMPLOYEE'S JOB RESPONSIBILITIES TO BE IMPAIRED WHEN THE EMPLOYEE MANIFESTS SPECIFIC ARTICULABLE SYMPTOMS WHILE WORKING THAT DECREASE OR LESSEN THE EMPLOYEE'S PERFORMANCE OF THE DUTIES OR TASKS OF THE EMPLOYEE'S JOB POSITION.

3. NOTHING IN THIS SECTION SHALL RESTRICT AN EMPLOYER'S ABILITY TO PROHIBIT OR TAKE ADVERSE EMPLOYMENT ACTION FOR THE POSSESSION OR USE OF INTOXICATING SUBSTANCES DURING WORK HOURS, OR REQUIRE AN EMPLOYER TO COMMIT ANY ACT THAT WOULD CAUSE THE EMPLOYER TO BE IN VIOLATION OF FEDERAL LAW, OR THAT WOULD RESULT IN THE LOSS OF A FEDERAL CONTRACT OR FEDERAL FUNDING.

4. AS USED IN THIS SECTION, "ADVERSE EMPLOYMENT ACTION" MEANS REFUSING TO HIRE OR EMPLOY, BARRING OR DISCHARGING FROM EMPLOYMENT, REQUIRING A PERSON TO RETIRE FROM EMPLOYMENT, OR DISCRIMINATING AGAINST IN COMPENSATION OR IN TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT.

§ 197. PROTECTIONS FOR PERSONS UNDER STATE SUPERVISION. A PERSON CURRENTLY UNDER PAROLE, PROBATION OR OTHER STATE SUPERVISION, OR RELEASED ON BAIL AWAITING TRIAL MAY NOT BE PUNISHED OR OTHERWISE PENALIZED FOR CONDUCT ALLOWED UNDER SECTIONS 221.05 AND 221.05-A OF THE PENAL LAW.

§ 198. PROFESSIONAL AND MEDICAL RECORD KEEPING. ANY PROFESSIONAL PROVIDING SERVICES IN CONNECTION WITH A LICENSED OR POTENTIALLY LICENSED BUSINESS UNDER THIS CHAPTER, OR IN CONNECTION WITH OTHER CONDUCT PERMITTED UNDER THIS CHAPTER, AND ANY MEDICAL PROFESSIONAL PROVIDING MEDICAL CARE TO A PATIENT, MAY AGREE WITH THEIR CLIENT OR PATIENT TO MAINTAIN NO RECORD, OR ANY REDUCED LEVEL OF RECORD KEEPING THAT PROFESSIONAL AND CLIENT OR PATIENT MAY AGREE. IN CASE OF SUCH AGREEMENT, THE PROFESSIONAL'S ONLY OBLIGATION SHALL BE TO KEEP SUCH RECORDS AS AGREED, AND TO KEEP A RECORD OF THE AGREEMENT. SUCH REDUCED RECORD KEEPING IS CONDUCT PERMITTED UNDER THIS CHAPTER, AND SHALL ATTRACT THE PROTECTIONS OF SECTION ONE HUNDRED NINETY-FOUR OF THIS ARTICLE.

§ 32. The state finance law is amended by adding three new sections 99-ff, 99-gg and 99-hh to read as follows:

§ 99-FF. NEW YORK STATE MARIHUANA REVENUE FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "NEW YORK STATE MARIHUANA REVENUE FUND".
2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT OF TAXATION AND FINANCE, PURSUANT TO THE PROVISIONS OF ARTICLE EIGHTEEN-A OF THE TAX LAW AND ALL OTHER MONEYS APPROPRIATED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW.

3. THE MONEYS IN SUCH FUND SHALL BE EXPENDED FOR THE FOLLOWING PURPOSES:

   (A) REASONABLE COSTS INCURRED BY THE DEPARTMENT OF TAXATION AND FINANCE FOR ADMINISTERING AND COLLECTING THE TAXES IMPOSED BY THIS PART; PROVIDED, HOWEVER, SUCH COSTS SHALL NOT EXCEED FOUR PERCENT OF TAX REVENUES RECEIVED.

   (B) REASONABLE COSTS INCURRED BY THE BUREAU OF MARIHUANA POLICY FOR IMPLEMENTING, ADMINISTERING, AND ENFORCING THE MARIHUANA REGULATION AND TAXATION ACT TO THE EXTENT THOSE COSTS ARE NOT REIMBURSED PURSUANT TO SECTIONS ONE HUNDRED EIGHTY-NINE AND ONE HUNDRED NINETY OF ARTICLE ELEVEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW. THIS PARAGRAPH SHALL REMAIN OPERATIVE THROUGH THE TWO THOUSAND TWENTY-FOUR -- TWO THOUSAND TWENTY-FIVE FISCAL YEAR.

   (C) BEGINNING WITH THE TWO THOUSAND TWENTY-ONE -- TWO THOUSAND TWENTY-TWO FISCAL YEAR AND CONTINUING THROUGH THE TWO THOUSAND TWENTY-THREE -- TWO THOUSAND TWENTY-FOUR FISCAL YEAR, THE COMMISSIONER OF TAXATION AND FINANCE SHALL ANNUALLY DISBURSE ONE MILLION DOLLARS TO THE MARIHUANA MICROBUSINESS AND MARIHUANA LICENSE REVOLVING LOAN FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-II OF THE STATE FINANCE LAW.

   (D) BEGINNING WITH THE TWO THOUSAND TWENTY-ONE -- TWO THOUSAND TWENTY-TWO FISCAL YEAR AND CONTINUING THROUGH THE TWO THOUSAND THIRTY -- TWO THOUSAND THIRTY-ONE FISCAL YEAR, THE COMMISSIONER OF TAXATION AND FINANCE SHALL ANNUALLY DISBURSE THE FOLLOWING SUMS FOR THE PURPOSES OF DATA COLLECTION AND REPORTING:

      (1) SEVEN HUNDRED FIFTY THOUSAND DOLLARS TO THE BUREAU OF MARIHUANA POLICY TO TRACK AND REPORT DATA RELATED TO THE LICENSING OF MARIHUANA BUSINESSES, INCLUDING THE GEOGRAPHIC LOCATION, STRUCTURE, AND FUNCTION OF LICENSED MARIHUANA BUSINESSES, AND DEMOGRAPHIC DATA, INCLUDING RACE, ETHNICITY, AND GENDER, OF LICENSE HOLDERS. THE BUREAU OF MARIHUANA POLICY SHALL PUBLISH REPORTS ON ITS FINDINGS ANNUALLY AND SHALL MAKE THE REPORTS AVAILABLE TO THE PUBLIC.

      (2) SEVEN HUNDRED FIFTY THOUSAND DOLLARS TO THE DEPARTMENT OF CRIMINAL JUSTICE SERVICES TO TRACK AND REPORT DATA RELATED TO ANY INFRACTIONS, VIOLATIONS, OR CRIMINAL CONVICTIONS THAT OCCUR UNDER ANY OF THE REMAINING MARIHUANA STATUTES. THE DEPARTMENT OF CRIMINAL JUSTICE SERVICES SHALL PUBLISH REPORTS ON ITS FINDINGS ANNUALLY AND SHALL MAKE THE REPORTS AVAILABLE TO THE PUBLIC.

      (3) ONE MILLION DOLLARS TO THE STATE UNIVERSITY OF NEW YORK TO RESEARCH AND EVALUATE THE IMPLEMENTATION AND EFFECT OF THE MARIHUANA REGULATION AND TAXATION ACT. NO MORE THAN FOUR PERCENT OF THESE MONIES MAY BE USED FOR EXPENSES RELATED TO ADMINISTRATIVE COSTS OF CONDUCTING SUCH RESEARCH, AND TO, IF APPROPRIATE, MAKE RECOMMENDATIONS TO THE LEGISLATURE AND GOVERNOR REGARDING POSSIBLE AMENDMENTS TO THE MARIHUANA REGULATION AND TAXATION ACT. THE RECIPIENTS OF THESE FUNDS SHALL PUBLISH REPORTS ON THEIR FINDINGS AT A MINIMUM OF EVERY TWO YEARS AND SHALL MAKE THE REPORTS AVAILABLE TO THE PUBLIC. THE RESEARCH FUNDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE BUT NOT NECESSARILY BE LIMITED TO:
(A) The impacts on public health, including health costs associated with marihuana use, as well as whether marihuana use is associated with an increase or decrease in use of alcohol or other drugs;

(B) The impact of treatment for cannabis use disorder and the effectiveness of different treatment programs;

(C) Public safety issues related to marihuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marihuana and marihuana products, and studying the health-related effects among users of varying potency levels of marihuana and marihuana products;

(D) Marihuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marihuana-related substance use disorders;

(E) Marihuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marihuana based on potency, and the structure and function of licensed marihuana businesses;

(F) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marihuana industry and, if so, recommendations as to the most effective measures for preventing such behavior;

(G) The economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue;

(H) Whether the regulatory agencies tasked with implementing and enforcing the marihuana regulation and taxation act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively; and

(I) Any environmental issues related to marihuana production and the criminal prohibition of marihuana production.

4. After the dispersal of moneys pursuant to subdivision three of this section, the remaining moneys in the fund deposited during the prior fiscal year shall be disbursed into the state lottery fund and two additional sub-funds created within the marihuana revenue fund known as the drug treatment and public education fund and the community grants reinvestment fund, as follows:

(A) Twenty-five percent shall be deposited in the state lottery fund established by section ninety-two-c of this article; provided that such moneys shall be distributed to the department of education in accordance with subdivisions two and four of section ninety-two-c of this article and shall not be utilized for the purposes of subdivision three of such section. Monies allocated by this article may enhance, but shall not supplant, existing dedicated funds to the department of education;

(B) Twenty-five percent shall be deposited in the drug treatment and public education fund established by section ninety-nine-gg of this article; and

(C) Fifty percent shall be deposited in the community grants reinvestment fund established by section ninety-nine-hh of this article.

5. On or before the first day of February each year, the commissioner of taxation and finance shall provide a written report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, the
STATE COMPTROLLER AND THE PUBLIC. SUCH REPORT SHALL DETAIL HOW THE
MONEYS OF THE FUND WERE UTILIZED DURING THE PRECEDING CALENDAR YEAR, AND
SHALL INCLUDE:
(I) THE AMOUNT OF MONEY DISPERSED FROM THE FUND AND THE AWARD PROCESS
USED FOR SUCH DISBURSEMENTS;
(II) RECIPIENTS OF AWARDS FROM THE FUND;
(III) THE AMOUNT AWARDED TO EACH RECIPIENT OF AN AWARD FROM THE FUND;
(IV) THE PURPOSES FOR WHICH SUCH AWARDS WERE GRANTED; AND
(V) A SUMMARY FINANCIAL PLAN FOR SUCH MONIES WHICH SHALL INCLUDE ESTI-
MATES OF ALL RECEIPTS AND ALL DISBURSEMENTS FOR THE CURRENT AND SUCCEED-
ING FISCAL YEARS, ALONG WITH THE ACTUAL RESULTS FROM THE PRIOR FISCAL
YEAR.
6. MONEYS SHALL BE PAYABLE DIRECTLY FROM THE MARIHUANA REVENUE FUND TO
THE DEPARTMENT.
§ 99-GG. NEW YORK STATE DRUG TREATMENT PUBLIC EDUCATION FUND. 1.
THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COM-
TROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO
BE KNOWN AS THE "NEW YORK STATE DRUG TREATMENT PUBLIC EDUCATION FUND".
2. SUCH FUND SHALL CONSIST OF REVENUES RECEIVED PURSUANT TO THE
PROVISIONS OF SECTION NINETY-NINE-FF OF THIS ARTICLE AND ALL OTHER
MONEYS APPROPRIATED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO
LAW. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM
RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS
DEFINED IN THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO
LAW.
3. THE MONEYS IN SUCH FUND SHALL BE EXPENDED TO THE COMMISSIONER OF
THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE AND DISBURSED IN CONSULTA-
TION WITH THE COMMISSIONER OF HEALTH FOR THE FOLLOWING PURPOSES:
(A) TO DEVELOP AND IMPLEMENT A YOUTH-FOCUSED PUBLIC HEALTH EDUCATION
AND PREVENTION CAMPAIGN, INCLUDING SCHOOL-BASED PREVENTION, EARLY INTER-
VENTION, AND HEALTH CARE SERVICES AND PROGRAMS TO REDUCE THE RISK OF
MARIHUANA AND OTHER SUBSTANCE USE BY SCHOOL-AGED CHILDREN;
(B) TO DEVELOP AND IMPLEMENT A STATEWIDE PUBLIC HEALTH CAMPAIGN
FOCUSED ON THE HEALTH EFFECTS OF MARIHUANA AND LEGAL USE, INCLUDING AN
ONGOING EDUCATION AND PREVENTION CAMPAIGN THAT EDUCATES THE GENERAL
PUBLIC, INCLUDING PARENTS, CONSUMERS AND RETAILERS, ON THE LEGAL USE OF
MARIHUANA, THE IMPORTANCE OF PREVENTING YOUTH ACCESS, THE IMPORTANCE OF
SAFE STORAGE AND PREVENTING SECONDHAND MARIHUANA SMOKE EXPOSURE, INFOR-
MATION FOR PREGNANT OR BREASTFEEDING WOMEN, AND THE OVERCONSUMPTION OF
EDIBLES;
(C) TO PROVIDE SUBSTANCE USE DISORDER TREATMENT PROGRAMS FOR YOUTH AND
ADULTS, WITH AN EMPHASIS ON PROGRAMS THAT ARE CULTURALLY AND GENDER
COMPETENT, TRAUMA-INFORMED, EVIDENCE-BASED AND PROVIDE A CONTINUUM OF
CARE THAT INCLUDES SCREENING AND ASSESSMENT (SUBSTANCE USE DISORDER AS
WELL AS MENTAL HEALTH), EARLY INTERVENTION, ACTIVE TREATMENT, FAMILY
INVOLVEMENT, CASE MANAGEMENT, OVERDOSE PREVENTION, PREVENTION OF COMMU-
NICABLE DISEASES RELATED TO SUBSTANCE USE, RELAPSE MANAGEMENT FOR
SUBSTANCE USE AND OTHER CO-OCcurring BEHAVIORAL HEALTH DISORDERS, VOCa-
TIONAL SERVICES, LITERACY SERVICES, PARENTING CLASSES, FAMILY THERAPy
AND COUNSELING SERVICES, MEDICATION-ASSISTED TREATMENTS, PSYCHIATRIC
MEDICATION AND PSYCHOTHERAPY; AND
(D) TO EVALUATE THE PROGRAMS BEING FUNDED TO DETERMINE THEIR EFFEC-
TIVENESS.
4. ON OR BEFORE THE FIRST DAY OF FEBRUARY EACH YEAR, THE COMMISSIONER
OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL PROVIDE A
WRITTEN REPORT TO THE TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE

(A) THE AMOUNT OF MONEY DISPERSED FROM THE FUND AND THE AWARD PROCESS USED FOR SUCH DISBURSEMENTS;
(B) RECIPIENTS OF AWARDS FROM THE FUND;
(C) THE AMOUNT AWARDED TO EACH RECIPIENT OF AN AWARD FROM THE FUND;
(D) THE PURPOSES FOR WHICH SUCH AWARDS WERE GRANTED; AND
(E) A SUMMARY FINANCIAL PLAN FOR SUCH MONIES WHICH SHALL INCLUDE ESTIMATES OF ALL RECEIPTS AND ALL DISBURSEMENTS FOR THE CURRENT AND SUCCEEDING FISCAL YEARS, ALONG WITH THE ACTUAL RESULTS FROM THE PRIOR FISCAL YEAR.

5. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER OF EDUCATION.

§ 99-HH. NEW YORK STATE COMMUNITY GRANTS REINVESTMENT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "NEW YORK STATE COMMUNITY GRANTS REINVESTMENT FUND".

2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED PURSUANT TO THE PROVISIONS OF SECTION NINETY-NINE-FF OF THIS ARTICLE AND ALL OTHER MONEYS APPROPRIATED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW.


4. THE MONEYS IN SUCH FUND SHALL BE EXPENDED BY THE EXECUTIVE STEERING COMMITTEE TO QUALIFIED COMMUNITY-BASED NONPROFIT ORGANIZATIONS FOR THE PURPOSE OF REINVESTING IN COMMUNITIES DISPROPORTIONATELY AFFECTED BY PAST FEDERAL AND STATE DRUG POLICIES. THE GRANTS FROM THIS PROGRAM SHALL BE USED TO SUPPORT JOB PLACEMENT, JOB SKILLS SERVICES, ADULT EDUCATION, MENTAL HEALTH TREATMENT, SUBSTANCE USE DISORDER TREATMENT, SYSTEM NAVIGATION SERVICES, LEGAL SERVICES TO ADDRESS BARRIERS TO REENTRY, AND LINKAGES TO MEDICAL CARE, WOMEN'S HEALTH SERVICES AND OTHER COMMUNITY-BASED SUPPORTIVE SERVICES.

5. ON OR BEFORE THE FIRST DAY OF FEBRUARY EACH YEAR, THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL PROVIDE A WRITTEN

(A) THE AMOUNT OF MONEY DISPERSSED FROM THE FUND AND THE AWARD PROCESS USED FOR SUCH DISBURSEMENTS;
(B) RECIPIENTS OF AWARDS FROM THE FUND;
(C) THE AMOUNT AWARDED TO EACH RECIPIENT OF AN AWARD FROM THE FUND;
(D) THE PURPOSES FOR WHICH SUCH AWARDS WERE GRANTED; AND
(E) A SUMMARY FINANCIAL PLAN FOR SUCH MONIES WHICH SHALL INCLUDE ESTIMATES OF ALL RECEIPTS AND ALL DISBURSEMENTS FOR THE CURRENT AND SUCCEEDING FISCAL YEARS, ALONG WITH THE ACTUAL RESULTS FROM THE PRIOR FISCAL YEAR.

6. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER OF EDUCATION.

§ 33. The tax law is amended by adding a new article 18-A to read as follows:

ARTICLE 18-A
PROVISIONS RELATING TO MARIHUANA

SECTION 446. DEFINITIONS.

1. "COMMERCIAL MARKET ACTIVITY" INCLUDES THE CULTIVATION, POSSESSION, MANUFACTURE, DISTRIBUTION, PROCESSING, STORING, LABORATORY TESTING, LABELING, TRANSPORTATION, DELIVERY OR SALE OF MARIHUANA AND MARIHUANA PRODUCTS, AS PROVIDED FOR IN ARTICLE ELEVEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW, BUT SHALL NOT INCLUDE MEDICAL MARIHUANA ACTIVITIES PROVIDED FOR IN TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW.

2. "CONCENTRATED CANNABIS" MEANS (A) THE SEPARATED RESIN, WHETHER CRUDE OR PURIFIED, OBTAINED FROM A PLANT OF THE GENUS CANNABIS; OR (B) A MATERIAL, PREPARATION, MIXTURE, COMPOUND OR OTHER SUBSTANCE WHICH CONTAINS MORE THAN THREE PERCENT BY WEIGHT OF DELTA-9 TETRAHYDROCANNABINOL, OR ITS ISOMER, DELTA-8 DIBENZOPYRAN NUMBERING SYSTEM, OR DELTA-1 TETRAHYDROCANNABINOL OR ITS ISOMER, DELTA 1 (6) MONOTERPENE NUMBERING SYSTEM.

NOT INCLUDE ALL PARTS OF THE PLANT CANNABIS SATIVA L., WHETHER GROWING
OR NOT, HAVING NO MORE THAN THREE-TENTHS OF ONE PERCENT TETRAHYDROCANNABINOL (THC).

4. "MARIHUANA CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR
OLDER WHO PURCHASED MARIHUANA OR MARIHUANA PRODUCTS FOR PERSONAL USE BY
PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

5. "MARIHUANA FLOWERS" SHALL MEAN THE DRIED FLOWERS OF THE MARIHUANA
PLANT.

6. "MARIHUANA LEAVES" SHALL MEAN ALL PARTS OF THE MARIHUANA PLANT
OTHER THAN MARIHUANA FLOWERS THAT ARE SOLD OR CONSUMED.

7. "MARIHUANA PROCESSOR" MEANS A PERSON LICENSED BY THE BUREAU OF
MARIHUANA POLICY TO PURCHASE MARIHUANA AND CONCENTRATED CANNABIS FROM
MARIHUANA PRODUCERS, TO PROCESS MARIHUANA, CONCENTRATED CANNABIS, AND
MARIHUANA-INFUSED PRODUCTS, PACKAGE AND LABEL MARIHUANA, CONCENTRATED
CANNABIS AND MARIHUANA-INFUSED PRODUCTS FOR SALE IN RETAIL OUTLETS, AND
SELL MARIHUANA, CONCENTRATED CANNABIS AND MARIHUANA-INFUSED PRODUCTS AT
WHOLESALE TO MARIHUANA RETAILERS.

8. "MARIHUANA PRODUCER" MEANS A PERSON LICENSED BY THE BUREAU OF MARI-
HUANA POLICY TO PRODUCE, PROCESS, AND SELL MARIHUANA AND CONCENTRATED
CANNABIS AT WHOLESALE TO MARIHUANA PROCESSORS, MARIHUANA RETAILERS, OR
OTHER MARIHUANA PRODUCERS, BUT NOT TO CONSUMERS.

9. "MARIHUANA PRODUCTS" MEANS MARIHUANA, CONCENTRATED CANNABIS, AND
MARIHUANA-INFUSED PRODUCTS.

10. "MARIHUANA-INFUSED PRODUCTS" MEANS PRODUCTS THAT CONTAIN MARIHUANA
OR CONCENTRATED CANNABIS AND ARE INTENDED FOR HUMAN USE OR CONSUMPTION,
SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

11. "IMMATURE MARIHUANA PLANT" MEANS A MARIHUANA PLANT WITH NO OBSERV-
ABLE FLOWERS OR BUDS.

12. "MARIHUANA RETAILER" MEANS A PERSON LICENSED BY THE BUREAU OF MARI-
HUANA POLICY TO PURCHASE MARIHUANA, CONCENTRATED CANNABIS, AND MARI-
HUANA-INFUSED PRODUCTS FROM MARIHUANA PRODUCERS AND MARIHUANA PROCESSORS
AND SELL MARIHUANA, MARIHUANA-INFUSED PRODUCTS, AND CONCENTRATED CANNA-
BIS IN A RETAIL OUTLET.

13. "MARIHUANA RETAILER FOR ON-PREMISES CONSUMPTION" MEANS A PERSON
LICENSED BY THE BUREAU OF MARIHUANA POLICY TO PURCHASE MARIHUANA,
CONCENTRATED CANNABIS, AND MARIHUANA INFUSED PRODUCTS FROM MARIHUANA
PRODUCERS, MARIHUANA RETAILERS AND MARIHUANA PROCESSORS AND SELL MARI-
HUANA PRODUCTS FOR A CUSTOMER TO CONSUME WHILE THE CUSTOMER IS WITHIN
THE FACILITY.

§ 447. TAXES IMPOSED. 1. (A) THERE IS HEREBY LEVIED AND IMPOSED A
CULTIVATION TAX UPON ALL HARVESTED MARIHUANA THAT ENTERS THE COMMERCIAL
MARKET UPON ALL PERSONS REQUIRED TO BE LICENSED TO CULTIVATE MARIHUANA
PURSUANT TO ARTICLE ELEVEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW. THE
TAX SHALL BE DUE AFTER THE MARIHUANA IS HARVESTED.
   (I) MARIHUANA FLOWERS SHALL BE TAXED AT A RATE OF SIXTY-TWO CENTS PER
   DRY-WEIGHT GRAM.
   (II) MARIHUANA LEAVES SHALL BE TAXED AT A RATE OF TEN CENTS PER DRY-
   WEIGHT GRAM.

   (B) THERE IS HEREBY LEVIED AND IMPOSED A NURSERY TAX UPON ALL IMMATURE
   PLANTS THAT ENTER THE COMMERCIAL MARKET UPON ALL PERSONS REQUIRED TO BE
   LICENSED TO PRODUCE IMMATURE PLANTS PURSUANT TO ARTICLE ELEVEN OF THE
   ALCOHOLIC BEVERAGE CONTROL LAW. IMMATURE PLANTS SHALL BE TAXED AT A RATE
   OF ONE DOLLAR AND THIRTY-FIVE CENTS EACH.

   (C) THERE IS HEREBY LEVIED AND IMPOSED A TAX UPON MARIHUANA SOLD OR
   OTHERWISE TRANSFERRED BY A MARIHUANA PRODUCER TO A MARIHUANA PROCESSOR

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OR MARIHUANA RETAILER AT A RATE EQUIVALENT TO THE RATE ESTABLISHED UNDER
ARTICLE TWENTY-EIGHT OF THIS CHAPTER.

(D) A MARIHUANA EXCISE TAX IS HEREBY LEVIED AND IMPOSED UPON CUSTOMERS
OF NONMEDICAL MARIHUANA OR NONMEDICAL MARIHUANA PRODUCTS SOLD IN THIS
STATE AT THE RATE FIFTEEN PERCENT OF ANY SALE BY A RETAILER, MICROBUSI-
NESS, OR OTHER PERSON REQUIRED TO BE LICENSED PURSUANT TO ARTICLE ELEVEN
OF THE ALCOHOLIC BEVERAGE CONTROL LAW TO SELL MARIHUANA AND MARIHUANA
PRODUCTS DIRECTLY TO A CUSTOMER.

(E) THE DEPARTMENT SHALL ESTABLISH PROCEDURES FOR THE COLLECTION OF
ALL TAXES LEVIED.

(F) NO TAX ESTABLISHED BY THIS SECTION SHALL BE LEVIED UPON MEDICAL
MARIHUANA INTENDED FOR SALE TO A CERTIFIED PATIENT OR DESIGNATED CARE-
GIVER PURSUANT TO TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC
HEALTH LAW.

2. FOR REPORTING PERIODS BEGINNING LATER THAN ONE YEAR FOLLOWING THE
EFFECTIVE DATE OF THIS ARTICLE, THE RATES OF TAX UNDER SUBDIVISION ONE
OF THIS SECTION SHALL BE ADJUSTED FOR EACH BIENNIAL ACCORDING TO THE
COST-OF-LIVING ADJUSTMENT FOR THE CALENDAR YEAR.

3. THE DEPARTMENT SHALL REGULARLY REVIEW THE RATES OF THE TAX UNDER
SUBDIVISION ONE OF THIS SECTION AND MAKE RECOMMENDATIONS TO THE LEGISLA-
TURE REGARDING APPROPRIATE ADJUSTMENTS TO THE RATES THAT WILL FURTHER
THE PURPOSES OF:

(A) MAXIMIZING NET REVENUE;
(B) MINIMIZING THE ILLEGAL MARIHUANA INDUSTRY; AND
(C) DISCOURAGING THE USE OF MARIHUANA BY MINORS UNDER TWENTY-ONE YEARS
OF AGE.

§ 447-A. LOCAL TAXES ON MARIHUANA BY A CITY OR TOWN. ANY CITY OR TOWN
IN THIS STATE, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY
AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN ANY
SUCH CITY OR TOWN A SALES TAX ON MARIHUANA RETAILERS AT A RATE OF NO
MORE THAN TWO PERCENT OF THE SALE PRICE OF MARIHUANA PRODUCTS SOLD TO A
MARIHUANA CONSUMER. ANY TAXES IMPOSED PURSUANT TO THE AUTHORITY OF THIS
SECTION SHALL BE ADMINISTERED AND COLLECTED BY THE DEPARTMENT IN THE
SAME MANNER AS THE TAXES IMPOSED UNDER SECTION FOUR HUNDRED FORTY-NINE
OF THIS ARTICLE. THE COMMISSIONER IS HEREBY EMPOWERED TO MAKE SUCH
PROVISIONS AS IT DEEMS NECESSARY FOR THE JOINT ADMINISTRATION AND
COLLECTION OF THE STATE AND LOCAL TAXES IMPOSED AND AUTHORIZED BY THIS
ARTICLE.

§ 447-B. ORDINARY AND NECESSARY EXPENSES DEDUCTIBLE FROM NET INCOME.
NOTWITHSTANDING ANY FEDERAL TAX LAW TO THE CONTRARY, IN COMPUTING NET
INCOME FOR BUSINESSES EXEMPTED FROM CRIMINAL PENALTIES UNDER ARTICLES
TWO HUNDRED TWENTY AND TWO HUNDRED TWENTY-ONE OF THE PENAL LAW AND ARTI-
CLE ELEVEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW, THERE SHALL BE ALLOWED
AS A DEDUCTION FROM STATE TAXES ALL THE ORDINARY AND NECESSARY EXPENSES
PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON ANY TRADE OR
BUSINESS, INCLUDING BUT NOT LIMITED TO, REASONABLE ALLOWANCE FOR SALA-
RIES OR OTHER COMPENSATION FOR PERSONAL SERVICES ACTUALLY RENDERED.

§ 448. SURETY BOND. MARIHUANA RETAILER APPLICANTS ARE REQUIRED TO
SUBMIT A SURETY BOND WITH THE DEPARTMENT EQUAL TO TWO MONTHS OF THE
CULTIVATION FACILITY'S ANTICIPATED RETAIL MARIHUANA EXCISE TAX. THE
SURETY BOND MUST BE ISSUED BY A COMPANY AUTHORIZED TO DO BUSINESS IN THE
STATE. PROOF OF SURETY BOND IS REQUIRED FOR APPROVAL OF APPLICANT'S
RETAIL LICENSE.

§ 449. COLLECTION OF TAX. THIS TAX SHALL BE COLLECTED BY THE COMMIS-
SIONER WHO SHALL ESTABLISH A PROCEDURE FOR THE COLLECTION OF THIS TAX.
§ 34. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50 of the criminal procedure law, paragraphs (i) and (j) as added by chapter 905 of the laws of 1977 and paragraph (k) as added by chapter 835 of the laws of 1977 and as relettered by chapter 192 of the laws of 1980, are amended to read as follows:

(i) prior to the filing of an accusatory instrument in a local criminal court against such person, the prosecutor elects not to prosecute such person. In such event, the prosecutor shall serve a certification of such disposition upon the division of criminal justice services and upon the appropriate police department or law enforcement agency which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one[.]; OR

(j) following the arrest of such person, the arresting police agency, prior to the filing of an accusatory instrument in a local criminal court but subsequent to the forwarding of a copy of the fingerprints of such person to the division of criminal justice services, elects not to proceed further. In such event, the head of the arresting police agency shall serve a certification of such disposition upon the division of criminal justice services which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one[.]; OR

(k) (i) The accusatory instrument alleged a violation of article two hundred twenty or section 240.36 of the penal law, prior to the taking effect of article two hundred twenty-one of the penal law, or by the CONVICTION OF SUCH PERSON OF a violation of [article two hundred twenty-one] SECTION 221.45 of the penal law ON OR AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINETEEN THAT AMENDED THIS SUBDIVISION OR A VIOLATION OF SECTION 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 or 221.40 OF THE PENAL LAW PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINETEEN THAT AMENDED THIS SUBDIVISION; AND (ii) the sole controlled substance involved is [marijuana; (iii) the conviction was only for a violation or violations; and (iv) at least three years have passed since the offense occurred] MARIHUANA. NO DEFENDANT SHALL BE REQUIRED OR PERMITTED TO WAIVE ELIGIBILITY FOR SEALING PURSUANT TO THIS PARAGRAPH AS PART OF A PLEA OF GUILTY, SENTENCE OR ANY AGREEMENT RELATED TO A CONVICTION FOR A VIOLATION OF SECTION 221.45 OF THE PENAL LAW. ANY SUCH WAIVER SHALL BE DEEMED VOID AND WHOLLY UNENFORCEABLE.

§ 35. Subdivision 4 of section 160.50 of the criminal procedure law, as amended by chapter 905 of the laws of 1977 and renumbered by chapter 142 of the laws of 1991, is amended to read as follows:

4. A person in whose favor a criminal action or proceeding was terminated, as defined in [paragraph] PARAGRAPHS (a) through (h), (K) OR (L) of subdivision [two] THREE of this section, prior to the effective date of [this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (i) or (j) of subdivision two of this section, prior to the effective date of this section, may apply to the appropriate prosecutor
or police agency for a certification as described in said paragraph (i) or (j) granting to such person the relief set forth therein, and such certification shall be granted by such prosecutor or police agency.] THE CHAPTER OF THE LAWS OF TWO THOUSAND NINETEEN THAT AMENDED THIS SUBDIVISION, AND WHOSE RECORDS HAVE NOT BEEN SEALED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, MAY APPLY TO HAVE THE RECORDS OF SUCH CRIMINAL ACTION OR PROCEEDING SEALED AT THE CLERK'S OFFICE FOR THE COURT IN WHICH THE CRIMINAL ACTION OR PROCEEDING WAS TERMINATED. APPLICATION MAY BE MADE BY THE PERSON OR HIS OR HER ATTORNEY. UPON A DETERMINATION BY THE CLERK THAT THE ACTION OR PROCEEDING WAS TERMINATED IN THE PERSON'S FAVOR AS DEFINED IN SUBDIVISION THREE OF THIS SECTION, THE CLERK OF THE COURT SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE HEADS OF ALL APPROPRIATE POLICE DEPARTMENTS AND OTHER LAW ENFORCEMENT AGENCIES THAT THE ACTION HAS BEEN TERMINATED IN FAVOR OF THE ACCUSED AND THAT THE RECORD OF SUCH ACTION OR PROCEEDINGS SHALL BE SEALED. UPON RECEIPT OF NOTIFICATION OF SUCH TERMINATION AND SEALING, ALL RECORDS RELATING TO THE CRIMINAL ACTION SHALL BE SEALED, AS REQUIRED UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF THIS SECTION, AND ALL PHOTOGRAPHS, PHOTOGRAPHIC PLATES OR PROOFS, PALMPRINTS AND FINGERPRINTS SHALL BE DESTROYED OR RETURNED AS SPECIFIED IN PARAGRAPHS (A) AND (B) OF SUBDIVISION ONE OF THIS SECTION. THIS PARAGRAPH SHALL NOT APPLY TO CASES IN WHICH THE COURT DECLINED TO SEAL FOR REASONS STATED ON THE RECORD, PURSUANT TO SUBDIVISION ONE OF THIS SECTION. WHEN AN APPLICANT UNDER THIS SUBDIVISION PRESENTS TO THE COURT CLERK FINGERPRINT RECORDS FROM NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES OR A COURT DISPOSITION WHICH INDICATE THAT A CRIMINAL ACTION OR PROCEEDING AGAINST THE APPLICANT WAS DISMISSED BUT THE SUPPORTING COURT RECORDS CANNOT BE LOCATED, HAVE BEEN DESTROYED, OR DO NOT INDICATE WHETHER THE DISMISSAL WAS A "TERMINATION IN FAVOR OF" THE ACCUSED AS THAT TERM IS DEFINED IN SUBDIVISION THREE OF THIS SECTION, THE CLERK OF THE COURT WHEREIN SUCH CRIMINAL ACTION OR PROCEEDING WAS TERMINATED SHALL PROCEED AS IF THE MATTER HAD BEEN SO TERMINATED.

§ 36. Subdivisions 1 and 2 of section 170.56 of the criminal procedure law, subdivision 1 as amended by chapter 360 of the laws of 1977 and subdivision 2 as added by chapter 1042 of the laws of 1971, are amended to read as follows:

1. Upon or after arraignment in a local criminal court upon an information, a prosecutor's information or a misdemeanor complaint, where the sole remaining count or counts charge a violation or violations of section [221.05, 221.10, 221.15, 221.35 or 221.40] 221.45 of the penal law, OR UPON SUMMONS FOR A NUISANCE OFFENSE UNDER SECTION SIXTY-FIVE-C OF THE ALCOHOLIC BEVERAGE CONTROL LAW and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal, or upon a finding that adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument; provided, however, that the court may not order such adjournment in contemplation of dismissal or dismiss the accusatory instrument if: (a) the defendant has previously been granted such adjournment in contemplation of dismissal, or (b) the defendant has previously been granted a dismissal under this section, or (c) the defendant has previously been convicted of any offense involving controlled substances, or (d) the defendant has previously been convicted of a crime and the district attorney does not consent or (e) the defendant has previously been adjudicated a youthful
offender on the basis of any act or acts involving controlled substances and the district attorney does not consent. NOTWITHSTANDING THE LIMITATIONS SET FORTH IN THIS SUBDIVISION, THE COURT MAY ORDER THAT ALL PROCEEDINGS BE SUSPENDED AND THE ACTION ADJOURNED IN CONTEMPLATION OF DISMISSAL BASED UPON A FINDING OF EXCEPTIONAL CIRCUMSTANCES. FOR PURPOSES OF THIS SUBDIVISION, EXCEPTIONAL CIRCUMSTANCES EXIST WHEN, REGARDLESS OF THE ULTIMATE DISPOSITION OF THE CASE, THE ENTRY OF A PLEA OF GUILTY IS LIKELY TO RESULT IN SEVERE COLLATERAL CONSEQUENCES, INCLUDING, BUT NOT LIMITED TO, THOSE THAT COULD LEAVE A NONCITIZEN INADMISSIBLE OR REMOVABLE FROM THE UNITED STATES.

2. Upon ordering the action adjourned in contemplation of dismissal, the court must set and specify such conditions for the adjournment as may be appropriate, and such conditions may include placing the defendant under the supervision of any public or private agency. At any time prior to dismissal the court may modify the conditions or extend or reduce the term of the adjournment, except that the total period of adjournment shall not exceed [twelve] SIX months. Upon violation of any condition fixed by the court, the court may revoke its order and restore the case to the calendar and the prosecution thereupon must proceed. If the case is not so restored to the calendar during the period fixed by the court, the accusatory instrument is, at the expiration of such period, deemed to have been dismissed in the furtherance of justice.

§ 37. Section 210.46 of the criminal procedure law, as amended by chapter 360 of the laws of 1977, is amended to read as follows:

§ 210.46 Adjournment in contemplation of dismissal in marihuana cases in a superior court.

Upon or after arraignment in a superior court upon an indictment where the sole remaining count or counts charge a violation or violations of section [221.05, 221.10, 221.15, 221.35 or 221.40] 221.45 of the penal law and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal or may dismiss the indictment in furtherance of justice, in accordance with the provisions of section 170.56 of this chapter.

§ 38. Paragraph (h) and subparagraph (ii) of paragraph (i) of subdivision 1 of section 440.10 of the criminal procedure law, paragraph (h) as amended by chapter 332 of the laws of 2010 and subparagraph (ii) of paragraph (i) as amended by chapter 368 of the laws of 2015, are amended and a new paragraph (j) is added to read as follows:

(h) The judgment was obtained in violation of a right of the defendant under the constitution of this state or of the United States; [or]

(ii) official documentation of the defendant's status as a victim of trafficking, compelling prostitution or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking, compelling prostitution or trafficking in persons, but shall not be required for granting a motion under this paragraph[.]; OR

(j) THE JUDGMENT OCCURRED PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH AND IS A CONVICTION FOR:

(I) AN OFFENSE AS DEFINED BY SECTION 221.05 OR 221.10 OF THE PENAL LAW (CRIMINAL POSSESSION OF MARIHUANA IN THE FIFTH DEGREE), AS IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH, PROVIDED THAT THE ACCUSATORY INSTRUMENT THAT UNDERLIES THE JUDGMENT DOES NOT INCLUDE AN ALLEGATION THAT THE DEFENDANT POSSESSED MORE THAN TWENTY-FIVE GRAMS OF MARIHUANA; OR
(II) AN OFFENSE AS DEFINED BY FORMER SECTION 221.35 OF THE PENAL LAW
(CRIMINAL SALE OF MARIHUANA IN THE FIFTH DEGREE).

§ 39. Subdivision 6 of section 440.10 of the criminal procedure law,
as added by chapter 332 of the laws of 2010, is amended to read as
follows:

6. If the court grants a motion under paragraph (i) OR PARAGRAPH (J)
of subdivision one of this section, it must vacate the judgment and
dismiss the accusatory instrument, and may take such additional action
as is appropriate in the circumstances.

§ 40. The criminal procedure law is amended by adding a new section
440.46-a to read as follows:

§ 440.46-A MOTION FOR RESENTENCE; PERSONS CONVICTED OF CERTAIN MARIHUANA
OFFENSES.

1. A PERSON CURRENTLY SERVING A SENTENCE FOR A CONVICTION, WHETHER BY
TRIAL OR BY OPEN OR NEGOTIATED PLEA, WHO WOULD NOT HAVE BEEN GUILTY OF
AN OFFENSE OR WHO WOULD HAVE BEEN GUILTY OF A LESSER OFFENSE ON AND
AFTER THE EFFECTIVE DATE OF THIS SECTION HAD THIS SECTION BEEN IN EFFECT
AT THE TIME OF HIS OR HER CONVICTION MAY PETITION FOR A RECALL OR
DISMISSAL OF SENTENCE BEFORE THE TRIAL COURT THAT ENTERED THE JUDGMENT
OF CONVICTION IN HIS OR HER CASE TO REQUEST RESENTENCING OR DISMISSAL IN
ACCORDANCE WITH ARTICLE TWO HUNDRED TWENTY-ONE OF THE PENAL LAW.

2. UPON RECEIVING A MOTION UNDER SUBDIVISION ONE OF THIS SECTION THE
COURT SHALL PRESUME THE MOVANT SATISFIES THE CRITERIA IN SUBDIVISION ONE
OF THIS SECTION UNLESS THE PARTY OPPOSING THE MOTION PROVES BY CLEAR AND
CONVINCING EVIDENCE THAT THE MOVANT DOES NOT SATISFY THE CRITERIA. IF
THE MOVANT SATISFIES THE CRITERIA IN SUBDIVISION ONE OF THIS SECTION,
THE COURT SHALL GRANT THE MOTION TO VACATE THE SENTENCE OR TO RESENTENCE
BECAUSE IT IS LEGALLY INVALID. IN EXERCISING ITS DISCRETION, THE COURT
MAY CONSIDER, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(A) THE MOVANT'S CRIMINAL CONVICTION HISTORY, INCLUDING THE TYPE OF
CRIMES COMMITTED, THE EXTENT OF INJURY TO VICTIMS, THE LENGTH OF PRIOR
PRISON COMMITMENTS, AND THE REMOTENESS OF THE CRIMES.

(B) THE MOVANT'S DISCIPLINARY RECORD AND RECORD OF REHABILITATION
WHILE INCARCERATED.

3. A PERSON WHO IS SERVING A SENTENCE AND RESENTENCED PURSUANT TO
SUBDIVISION TWO OF THIS SECTION SHALL BE GIVEN CREDIT FOR ANY TIME
ALREADY SERVED AND SHALL BE SUBJECT TO SUPERVISION FOR ONE YEAR FOLLOW-
ING COMPLETION OF HIS OR HER TIME IN CUSTODY OR SHALL BE SUBJECT TO
WHATEVER SUPERVISION TIME HE OR SHE WOULD HAVE OTHERWISE BEEN SUBJECT TO
AFTER RELEASE, WHICHER IS SHORTER, UNLESS THE COURT, IN ITS
DISCRETION, AS PART OF ITS RESENTENCING ORDER, RELEASES THE PERSON FROM
SUPERVISION. SUCH PERSON IS SUBJECT TO PAROLE SUPERVISION UNDER SECTION
60.04 OF THE PENAL LAW OR POST-RELEASE SUPERVISION UNDER SECTION 70.45
OF THE PENAL LAW BY THE DESIGNATED AGENCY AND THE JURISDICTION OF THE
COURT IN THE COUNTY IN WHICH THE OFFENDER IS RELEASED OR RESIDES, OR IN
WHICH AN ALLEGED VIOLATION OF SUPERVISION HAS OCCURRED, FOR THE PURPOSE
OF HEARING PETITIONS TO REVOKE SUPERVISION AND IMPOSE A TERM OF CUSTODY.

4. UNDER NO CIRCUMSTANCES MAY RESENTENCING UNDER THIS SECTION RESULT
IN THE IMPOSITION OF A TERM LONGER THAN THE ORIGINAL SENTENCE, OR THE
REINSTATEMENT OF CHARGES DISMISSED PURSUANT TO A NEGOTIATED PLEA AGREE-
MENT.

5. A PERSON WHO HAS COMPLETED HIS OR HER SENTENCE FOR A CONVICTION
UNDER THE FORMER ARTICLE TWO HUNDRED TWENTY-ONE OF THE PENAL LAW, WHETH-
ER BY TRIAL OR OPEN OR NEGOTIATED PLEA, WHO WOULD NOT HAVE BEEN GUILY
OF AN OFFENSE OR WHO WOULD HAVE BEEN GUILTY OF A LESSER OFFENSE ON AND
AFTER THE EFFECTIVE DATE OF THIS SECTION HAD THIS SECTION BEEN IN EFFECT
AT THE TIME OF HIS OR HER CONVICTION, MAY FILE AN APPLICATION BEFORE THE
TRIAL COURT THAT ENTERED THE JUDGMENT OF CONVICTION IN HIS OR HER CASE
TO HAVE THE CONVICTION, IN ACCORDANCE WITH ARTICLE TWO HUNDRED TWENTY-
ONE OF THE PENAL LAW:
(A) DISMISSED BECAUSE THE PRIOR CONVICTION IS NOW LEGALLY INVALID AND
SEALED IN ACCORDANCE WITH SECTION 160.50 OF THIS CHAPTER;
(B) REDESIGNATED (OR "RECLASSIFIED") AS A VIOLATION AND SEALED IN
ACCORDANCE WITH SECTION 160.50 OF THIS CHAPTER; OR
(C) REDESIGNATED (RECLASSIFIED) AS A MISDEMEANOR.
6. THE COURT SHALL PRESUME THE PETITIONER SATISFIES THE CRITERIA IN
SUBDIVISION FIVE UNLESS THE PARTY OPPOSING THE APPLICATION PROVES BY
CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER DOES NOT SATISFY THE
CRITERIA IN SUBDIVISION FIVE. ONCE THE APPLICANT SATISFIES THE CRITERIA
IN SUBDIVISION FIVE, THE COURT SHALL REDESIGNATE (OR "RECLASSIFY") THE
CONVICTION AS A MISDEMEANOR, REDESIGNATE (RECLASSIFY) THE CONVICTION AS
A VIOLATION AND SEAL THE CONVICTION, OR DISMISS AND SEAL THE CONVICTION
AS LEGALLY INVALID UNDER THIS SECTION HAD THIS SECTION BEEN IN EFFECT AT
THE TIME OF HIS OR HER CONVICTION.
7. UNLESS REQUESTED BY THE APPLICANT, NO HEARING IS NECESSARY TO GRANT
OR DENY AN APPLICATION FILED UNDER SUBDIVISION FIVE OF THIS SECTION.
8. ANY FELONY CONVICTION THAT IS VACATED AND RESENTENCED UNDER SUBDI-
VISION TWO OR DESIGNATED AS A MISDEMEANOR OR VIOLATION UNDER SUBDIVISION
SIX OF THIS SECTION SHALL BE CONSIDERED A MISDEMEANOR OR VIOLATION FOR
ALL PURPOSES. ANY MISDEMEANOR CONVICTION THAT IS VACATED AND RESENTENCED
UNDER SUBDIVISION TWO OF THIS SECTION OR DESIGNATED AS A VIOLATION UNDER
SUBDIVISION SIX OF THIS SECTION SHALL BE CONSIDERED A VIOLATION FOR ALL
PURPOSES.
9. IF THE COURT THAT ORIGINALLY SENTENCED THE MOVANT IS NOT AVAILABLE,
THE PRESIDING JUDGE SHALL DESIGNATE ANOTHER JUDGE TO RULE ON THE PETI-
TION OR APPLICATION.
10. NOTHING IN THIS SECTION IS INTENDED TO DIMINISH OR ABROGATE ANY
RIGHTS OR REMEDIES OTHERWISE AVAILABLE TO THE PETITIONER OR APPLICANT.
11. NOTHING IN THIS AND RELATED SECTIONS IS INTENDED TO DIMINISH OR
ABROGATE THE FINALITY OF JUDGEMENTS IN ANY CASE NOT FALLING WITHIN THE
PURVIEW OF THIS SECTION.
12. THE PROVISIONS OF THIS SECTION SHALL APPLY EQUALLY TO JUVENILE
DELINQUENCY ADJUDICATIONS AND DISPOSITIONS UNDER SECTION FIVE HUNDRED
ONE-E OF THE EXECUTIVE LAW IF THE JUVENILE WOULD NOT HAVE BEEN GUILTY OF
AN OFFENSE OR WOULD HAVE BEEN GUILTY OF A LESSER OFFENSE UNDER THIS
SECTION HAD THIS SECTION BEEN IN EFFECT AT THE TIME OF HIS OR HER
CONVICTION.
13. THE OFFICE OF COURT ADMINISTRATION SHALL PROMULGATE AND MAKE
AVAILABLE ALL NECESSARY FORMS TO ENABLE THE FILING OF THE PETITIONS AND
APPLICATIONS PROVIDED IN THIS SECTION NO LATER THAN SIXTY DAYS FOLLOWING
THE EFFECTIVE DATE OF THIS SECTION.
§ 41. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
procedure law, as amended by chapter 37 of the laws of 2014, is amended
to read as follows:
(c) Criminal possession of a controlled substance in the seventh
degree as defined in section 220.03 of the penal law, criminal
possession of a controlled substance in the fifth degree as defined in
section 220.06 of the penal law, criminal possession of a controlled
substance in the fourth degree as defined in section 220.09 of the penal
law, criminal possession of a controlled substance in the third degree
as defined in section 220.16 of the penal law, criminal possession of a
controlled substance in the second degree as defined in section 220.18
of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist as defined in section 220.65 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, operating as a major trafficker as defined in section 220.77 of the penal law, [criminal possession of marihuana in the first degree as defined in section 221.30 of the penal law, criminal sale of marihuana in the first degree as defined in section 221.55 of the penal law,] promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

§ 42. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and 9 of section 1310 of the civil practice law and rules, paragraphs (b) and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984, are amended to read as follows:

(b) on three or more occasions, engaging in conduct constituting a violation of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[,] OR 220.43 [or 221.55] of the penal law, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34 or 220.39 of the penal law, [or a conviction of a criminal defendant for a violation of section 221.30 of the penal law,] or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized
by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances [or where the conviction is for a violation of section 221.30 of the penal law, marijuana,] as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance [or where the conviction is for a violation of section 221.30 of the penal law, marijuana], that such possession was with the intent to sell it.

§ 43. Subdivision 13 of section 89-f of the general business law, as added by chapter 336 of the laws of 1992, is amended to read as follows:

13. "Serious offense" shall mean any felony involving the offenses enumerated in the closing paragraph of this subdivision; a criminal solicitation of or a conspiracy to commit or an attempt to commit or a criminal facilitation of a felony involving the offenses enumerated in the closing paragraph of this subdivision, which criminal solicitation, conspiracy, attempt or criminal facilitation itself constitutes a felony or any offense in any other jurisdiction which if committed in this state would constitute a felony; any offense in any other jurisdiction which if committed in this state would constitute a felony provided that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such: (i) a conviction for which an executive pardon has been issued pursuant to the executive law; (ii) a conviction which has been vacated and replaced by a youthful offender finding pursuant to article seven hundred twenty of the criminal procedure law, or the applicable provisions of law of any other jurisdiction; or (iii) a conviction the records of which have been sealed pursuant to the applicable provisions of the laws of this state or of any other jurisdiction; and (iv) a conviction for which other evidence of successful rehabilitation to remove the disability has been issued.

Felonies involving: assault, aggravated assault and reckless endangerment pursuant to article one hundred twenty; vehicular manslaughter, manslaughter and murder pursuant to article one hundred twenty-five; sex offenses pursuant to article one hundred thirty; unlawful imprisonment, kidnapping or coercion pursuant to article one hundred thirty-five; criminal trespass and burglary pursuant to article one hundred forty; criminal mischief, criminal tampering and tampering with a consumer product pursuant to article one hundred forty-five; arson pursuant to article one hundred fifty; larceny and offenses involving theft pursuant to article one hundred fifty-five; offenses involving computers pursuant to article one hundred sixty; criminal possession of stolen property pursuant to article one hundred sixty-five; forgery and related offenses pursuant to article one hundred seventy; involving false written statements pursuant
to article one hundred seventy-five; commercial bribing and commercial
bribe receiving pursuant to article one hundred eighty; criminal imper-
onsonation and scheme to defraud pursuant to article one hundred ninety;
brbey involving public servants and related offenses pursuant to arti-
cle two hundred; perjury and related offenses pursuant to article two
hundred ten; tampering with a witness, intimidating a victim or witness
and tampering with physical evidence pursuant to article two hundred
fifteen; criminal possession of a controlled substance pursuant to
sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a
controlled substance pursuant to sections 220.31, 220.34, 220.39,
220.41, 220.43 and 220.44; [criminal] UNLICENSED sale of [marijuana]
MARIHUANA IN THE FIRST DEGREE pursuant to [sections] SECTION 221.45,[,
221.50 and 221.55]; riot in the first degree, aggravated harassment in
the first degree, criminal nuisance in the first degree and falsely
reporting an incident in the second or first degree pursuant to article
two hundred forty; and crimes against public safety pursuant to article
two hundred sixty-five of the penal law.

§ 44. Paragraph (f) of subdivision 2 of section 850 of the general
business law is REPEALED.

§ 45. Paragraph (h) of subdivision 2 of section 850 of the general
business law, as amended by chapter 812 of the laws of 1980, is amended
to read as follows:

(h) Objects, used or designed for the purpose of ingesting, inhaling,
or otherwise introducing [marihuana,] cocaine[, hashish, or hashish oil]
into the human body.

§ 46. Paragraph a of subdivision 4-a of section 165 of the state
finance law, as added by chapter 95 of the laws of 2000, is amended to
read as follows:

a. In order to advance specific economic goals, New York state
labelled wines, as defined in subdivision [twenty-a] TWENTY-J of section
three of the alcoholic beverage control law, shall have favored source
status for the purposes of procurement in accordance with the provisions
of this subdivision. Procurement of these New York state labelled wines
shall be exempt from the competitive procurement provisions of section
one hundred sixty-three of this article and other competitive procure-
ment statutes. Such exemption shall apply to New York state labelled
wines as defined in subdivision [twenty-a] TWENTY-J of section three of
the alcoholic beverage control law produced by a licensed winery as
defined in section seventy-six of the alcoholic beverage control law.

§ 47. Subdivision 7 of section 995 of the executive law, as amended by
chapter 19 of the laws of 2012, is amended to read as follows:

7. "Designated offender" means a person convicted of any felony
defined in any chapter of the laws of the state or any misdemeanor
defined in the penal law [except that where the person is convicted
under section 221.10 of the penal law, only a person convicted under
subdivision two of such section, or a person convicted under subdivision
one of such section who stands previously convicted of any crime as
defined in subdivision six of section 10.00 of the penal law].

§ 48. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the
penal law, paragraph (b) as amended by section 31 of part AAA of chapter
56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the
laws of 1990, are amended to read as follows:

(b) three or more violations of any of the felonies defined in section
220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
220.43[,] OR 220.77[, or 221.55] of this chapter, which violations do
not constitute a single criminal offense as defined in subdivision one
1. Section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or
(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34[,] or 220.39[, or 221.30] of this chapter, or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances [or where the conviction is for a violation of section 221.30 of this chapter, marijuana] as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance [or where the conviction is for a violation of section 221.30 of this chapter, marijuana], that such possession was with the intent to sell it.

§ 49. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:
(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, [221.30, 221.50, 221.55,] 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

§ 50. The opening paragraph of paragraph (a) of subdivision 2 of section 1194 of the vehicle and traffic law, as amended by chapter 196 of the laws of 1996, is amended to read as follows:
When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content, OTHER THAN MARIHUANA CONTENT INCLUDING BUT NOT LIMITED TO TETRAHYDROCANNABINOL CONTENT, of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer:

§ 51. Section 17 of the alcoholic beverage control law is amended by adding a new subdivision 12 to read as follows:
12. To develop and establish minimum criteria for alcohol or substance use disorder training awareness programs which may be given and administered by schools; other entities including trade associations whose members are engaged in or involved in the retail sale of alcoholic beverages; national and regional franchisors who have granted at least five franchises in the state which are licensed to sell beer at retail for off-premises consumption; licensees authorized to sell alcoholic beverages at retail for off-premises consumption operating five or more licensed premises; and persons interested, whether as an individual proprietor or partner or officer or member of a limited liability company, in five or more licensees authorized to sell alcoholic beverages at retail for off-premises consumption. The authority shall provide for the issuance of certificates of approval to all certified alcohol or substance use disorder training awareness programs. Certificates of approval may be revoked by the authority for failure to adhere to the authority's rules and regulations. Such rules and regulations shall afford those who have been issued a certificate of approval an opportunity for a hearing prior to any determination of whether such certificate should be revoked.

No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years.

To effectuate the provisions of this subdivision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; and to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol or substance use disorder training awareness program shall issue certificates of completion to all licensees and employees who successfully complete such an approved alcohol or substance use disorder training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol or substance use disorder training awareness program. Such transmittal shall be in a form and manner prescribed by the authority. The authority shall adopt rules and regulations to effectuate the provisions of this subdivision, including the minimum requirements for the curriculum of each such training program and the regular ongoing training of employees holding certificates of completion or renewal certificates. Such rules and regulations shall include the minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption, minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption, and the form of a certificate of completion or renewal thereof to be issued in respect to each such type of program. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol or substance use disorder training awareness program pursuant to
THIS SUBDIVISION TO LICENSEES AND THEIR EMPLOYEES AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT RETAIL FOR OFF-PREMISES CONSUMPTION SHALL NOT BE INVALIDATED BY A CHANGE OF EMPLOYMENT TO ANOTHER SUCH LICENSEE. A CERTIFICATE OF COMPLETION OR RENEWAL THEREOF ISSUED BY AN ENTITY AUTHORIZED TO GIVE AND ADMINISTER AN ALCOHOL OR SUBSTANCE USE DISORDER TRAINING AWARENESS PROGRAM PURSUANT TO THIS SUBDIVISION TO LICENSEES AND THEIR EMPLOYEES AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT RETAIL FOR ON-PREMISES CONSUMPTION SHALL NOT BE INVALIDATED BY A CHANGE OF EMPLOYMENT TO ANOTHER SUCH LICENSEE. ATTENDANCE AT ANY COURSE ESTABLISHED PURSUANT TO THIS SECTION SHALL BE IN PERSON, THROUGH DISTANCE LEARNING METHODS, OR THROUGH AN INTERNET BASED ONLINE PROGRAM.

§ 52. Subdivision 12 of section 17 of the alcoholic beverage control law, as amended by chapter 549 of the laws of 2001, the closing paragraph as amended by chapter 435 of the laws of 2010, is amended to read as follows:

12. To develop and establish minimum criteria for alcohol OR SUBSTANCE USE DISORDER training awareness programs which may be given and administered by schools; other entities including trade associations whose members are engaged in or involved in the retail sale of alcoholic beverages; national and regional franchisors who have granted at least five franchises in the state which are licensed to sell beer at retail for off-premises consumption; licensees authorized to sell alcoholic beverages at retail for off-premises consumption operating five or more licensed premises; and persons interested, whether as an individual proprietor or partner or officer or member of a limited liability company, in five or more licensees authorized to sell alcoholic beverages at retail for off-premises consumption. The authority shall provide for the issuance of certificates of approval to all certified alcohol OR SUBSTANCE USE DISORDER training awareness programs. Certificates of approval may be revoked by the authority for failure to adhere to the authority's rules and regulations. Such rules and regulations shall afford those who have been issued a certificate of approval an opportunity for a hearing prior to any determination of whether such certificate should be revoked.

No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years. To effectuate the provisions of this subdivision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol OR SUBSTANCE USE DISORDER training awareness program shall issue certificates of completion to all licensees and employees who successfully complete such an approved alcohol OR SUBSTANCE USE DISORDER training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol OR SUBSTANCE USE DISORDER
training awareness program. Such transmittal shall be in a form and manner prescribed by the authority. The authority shall adopt rules and regulations to effectuate the provisions of this subdivision, including the minimum requirements for the curriculum of each such training program and the regular ongoing training of employees holding certificates of completion or renewal certificates. Such rules and regulations shall include the minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption, minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption, and the form of a certificate of completion or renewal thereof to be issued in respect to each such type of program. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol OR SUBSTANCE USE DISORDER training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption shall not be invalidated by a change of employment to another such licensee. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol OR SUBSTANCE USE DISORDER training awareness program pursuant to this section shall be in person, through distance learning methods, or through an internet based online program.

§ 53. Subdivision 10 of section 18 of the alcoholic beverage control law, as amended by chapter 118 of the laws of 2012, is amended to read as follows:

10. To develop and establish minimum criteria for alcohol OR SUBSTANCE USE DISORDER training awareness programs which may be given and administered by schools; other entities including trade associations whose members are engaged in or involved in the retail sale of alcoholic beverages; national and regional franchisors who have granted at least five franchises in the state which are licensed to sell beer at retail for off-premises consumption; licensees authorized to sell alcoholic beverages at retail for off-premises consumption operating five or more licensed premises; and persons interested, whether as an individual proprietor or partner or officer or member of a limited liability company, in five or more licensees authorized to sell alcoholic beverages at retail for off-premises consumption. The authority shall provide for the issuance of certificates of approval to all certified alcohol OR SUBSTANCE USE DISORDER training awareness programs. Certificates of approval may be revoked by the authority for failure to adhere to the authority's rules and regulations. Such rules and regulations shall afford those who have been issued a certificate of approval an opportunity for a hearing prior to any determination of whether such certificate should be revoked.

No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years. To effectuate the provisions of this subdi-
vision, the authority is empowered to require in connection with an
application the submission of such information as the authority may
direct; to prescribe forms of applications and of all reports which it
deems necessary to be made by any applicant or certificate holder; to
conduct investigations; to require the maintenance of such books and
records as the authority may direct; to revoke, cancel, or suspend for
cause any certificate provided for in this subdivision. Each entity
authorized to give and administer an alcohol OR SUBSTANCE USE DISORDER
training awareness program shall issue certificates of completion to all
licensees and employees who successfully complete such an approved alco-
hol OR SUBSTANCE USE DISORDER training awareness program. Such entity
shall regularly transmit to the authority the names, addresses and dates
of attendance of all the licensees and employees of licensees who
successfully complete an approved alcohol OR SUBSTANCE USE DISORDER
training awareness program. Such transmittal shall be in a form and
manner prescribed by the authority. The authority shall adopt rules and
regulations to effectuate the provisions of this subdivision, including
the minimum requirements for the curriculum of each such training
program and the regular ongoing training of employees holding certif-
icates of completion or renewal certificates. Such rules and regulations
shall include the minimum requirements for a separate curriculum for
licensees and their employees authorized to sell alcoholic beverages at
retail for off-premises consumption, minimum requirements for a separate
curriculum for licensees and their employees authorized to sell alcohol-
ic beverages at retail for on-premises consumption, and the form of a
certificate of completion or renewal thereof to be issued in respect to
each such type of program. A certificate of completion or renewal there-
of issued by an entity authorized to give and administer an alcohol OR
SUBSTANCE USE DISORDER training awareness program pursuant to this
subdivision to licensees and their employees authorized to sell alcohol-
ic beverages at retail for off-premises consumption shall not be invali-
dated by a change of employment to another such licensee. A certificate
of completion or renewal thereof issued by an entity authorized to give
and administer an alcohol OR SUBSTANCE USE DISORDER training awareness
program pursuant to this subdivision to licensees and their employees
authorized to sell alcoholic beverages at retail for on-premises
consumption shall not be invalidated by a change of employment to anoth-
er such licensee. Attendance at any course established pursuant to this
section shall be in person, through distance learning methods, or
through an internet based online program.

§ 54. Section 18 of the alcoholic beverage control law, as added by
chapter 83 of the laws of 1995, is amended by adding a new subdivision
10 to read as follows:

10. TO DEVELOP AND ESTABLISH MINIMUM CRITERIA FOR ALCOHOL OR SUBSTANCE
USE DISORDER TRAINING AWARENESS PROGRAMS WHICH MAY BE GIVEN AND ADMINIS-
TERED BY SCHOOLS; OTHER ENTITIES INCLUDING TRADE ASSOCIATIONS WHOSE
MEMBERS ARE ENGAGED IN OR INVOLVED IN THE RETAIL SALE OF ALCOHOLIC
BEVERAGES; NATIONAL AND REGIONAL FRANCHISORS WHO HAVE GRANTED AT LEAST
FIVE FRANCHISES IN THE STATE WHICH ARE LICENSED TO SELL BEER AT RETAIL
FOR OFF-PREMISES CONSUMPTION; LICENSEES AUTHORIZED TO SELL ALCOHOLIC
BEVERAGES AT RETAIL FOR OFF-PREMISES CONSUMPTION OPERATING FIVE OR MORE
LICENSED PREMISES; AND PERSONS INTERESTED, WHETHER AS AN INDIVIDUAL
PROPRIETOR OR PARTNER OR OFFICER OR MEMBER OF A LIMITED LIABILITY COMPAN-
NY, IN FIVE OR MORE LICENSEES AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT
RETAIL FOR OFF-PREMISES CONSUMPTION. THE AUTHORITY SHALL PROVIDE FOR THE
ISSUANCE OF CERTIFICATES OF APPROVAL TO ALL CERTIFIED ALCOHOL OR
SUBSTANCE USE DISORDER TRAINING AWARENESS PROGRAMS. CERTIFICATES OF APPROVAL MAY BE REVOKED BY THE AUTHORITY FOR FAILURE TO ADHERE TO THE AUTHORITY'S RULES AND REGULATIONS. SUCH RULES AND REGULATIONS SHALL AFFORD THOSE WHO HAVE BEEN ISSUED A CERTIFICATE OF APPROVAL AN OPPORTUNITY FOR A HEARING PRIOR TO ANY DETERMINATION OF WHETHER SUCH CERTIFICATE SHOULD BE REVOKED.

NO LICENSEE SHALL BE REQUIRED TO APPLY FOR ANY SUCH CERTIFICATE OR RENEWAL CERTIFICATE AND THE LICENSEE MAY VOLUNTARILY SURRENDER SUCH A CERTIFICATE OR RENEWAL CERTIFICATE AT ANY TIME. A FEE IN THE AMOUNT OF NINE HUNDRED DOLLARS SHALL BE PAID TO THE AUTHORITY WITH EACH APPLICATION FOR A CERTIFICATE OF APPROVAL OR RENEWAL CERTIFICATE. THE AUTHORITY SHALL PROMPTLY REFUND SUCH FEE TO AN APPLICANT WHOSE APPLICATION WAS DENIED. EACH CERTIFICATE OF APPROVAL AND RENEWAL THEREOF SHALL BE ISSUED FOR A PERIOD OF THREE YEARS. TO EFFECTUATE THE PROVISIONS OF THIS SUBDIVISION, THE AUTHORITY IS EMPOWERED TO REQUIRE IN CONNECTION WITH ANY APPLICATION THE SUBMISSION OF SUCH INFORMATION AS THE AUTHORITY MAY DIRECT; TO PRESCRIBE FORMS OF APPLICATIONS AND OF ALL REPORTS WHICH IT DEEMS NECESSARY TO BE MADE BY ANY APPLICANT OR CERTIFICATE HOLDER; TO CONDUCT INVESTIGATIONS; TO REQUIRE THE MAINTENANCE OF SUCH BOOKS AND RECORDS AS THE AUTHORITY MAY DIRECT; TO REVOKE, CANCEL, OR SUSPEND FOR CAUSE ANY CERTIFICATE PROVIDED FOR IN THIS SUBDIVISION. EACH ENTITY AUTHORIZED TO GIVE AND ADMINISTER AN ALCOHOL OR SUBSTANCE USE DISORDER TRAINING AWARENESS PROGRAM SHALL ISSUE CERTIFICATES OF COMPLETION TO ALL LICENSEES AND EMPLOYEES WHO SUCCESSFULLY COMPLETE SUCH AN APPROVED ALCOHOL OR SUBSTANCE USE DISORDER TRAINING AWARENESS PROGRAM. SUCH ENTITY SHALL REGULARLY TRANSMIT TO THE AUTHORITY THE NAMES, ADDRESSES AND DATES OF ATTENDANCE OF ALL THE LICENSEES AND EMPLOYEES OF LICENSEE WHO SUCCESSFULLY COMPLETE AN APPROVED ALCOHOL OR SUBSTANCE USE DISORDER TRAINING AWARENESS PROGRAM. SUCH TRANSMITTAL SHALL BE IN A FORM AND MANNER PRESCRIBED BY THE AUTHORITY. THE AUTHORITY SHALL ADOPT RULES AND REGULATIONS TO EFFECTUATE THE PROVISIONS OF THIS SUBDIVISION, INCLUDING THE MINIMUM REQUIREMENTS FOR THE CURRICULUM OF EACH SUCH TRAINING PROGRAM AND THE REGULAR ONGOING TRAINING OF EMPLOYEES HOLDING CERTIFICATES OF COMPLETION OR RENEWAL CERTIFICATES. SUCH RULES AND REGULATIONS SHALL INCLUDE THE MINIMUM REQUIREMENTS FOR A SEPARATE CURRICULUM FOR LICENSEES AND THEIR EMPLOYEES AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT RETAIL FOR OFF-PREMISES CONSUMPTION, MINIMUM REQUIREMENTS FOR A SEPARATE CURRICULUM FOR LICENSEES AND THEIR EMPLOYEES AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT RETAIL FOR ON-PREMISES CONSUMPTION, AND THE FORM OF A CERTIFICATE OF COMPLETION OR RENEWAL THEREOF TO BE ISSUED IN RESPECT TO EACH SUCH TYPE OF PROGRAM. A CERTIFICATE OF COMPLETION OR RENEWAL THEREOF ISSUED BY AN ENTITY AUTHORIZED TO GIVE AND ADMINISTER AN ALCOHOL OR SUBSTANCE USE DISORDER TRAINING AWARENESS PROGRAM PURSUANT TO THIS SUBDIVISION TO LICENSEES AND THEIR EMPLOYEES AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT RETAIL FOR ON-PREMISES CONSUMPTION SHALL NOT BE INVALIDATED BY A CHANGE OF EMPLOYMENT TO ANOTHER SUCH LICENSEE. A CERTIFICATE OF COMPLETION OR RENEWAL THEREOF ISSUED BY AN ENTITY AUTHORIZED TO GIVE AND ADMINISTER AN ALCOHOL OR SUBSTANCE USE DISORDER TRAINING AWARENESS PROGRAM PURSUANT TO THIS SUBDIVISION TO LICENSEES AND THEIR EMPLOYEES AUTHORIZED TO SELL ALCOHOLIC BEVERAGES AT RETAIL FOR OFF-PREMISES CONSUMPTION SHALL NOT BE INVALIDATED BY A CHANGE OF EMPLOYMENT TO ANOTHER SUCH LICENSEE. ATTENDANCE AT ANY COURSE ESTABLISHED PURSUANT TO THIS SECTION SHALL BE IN PERSON, THROUGH DISTANCE LEARNING METHODS, OR THROUGH AN INTERNET BASED ONLINE PROGRAM.

§ 55. Section 150.75 of the criminal procedure law is REPEALED.
§ 56. Subdivision (a) of section 712 of the family court act, as amended by section 7 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

(a) "Person in need of supervision". A person less than eighteen years of age who does not attend school in accordance with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority, or who violates the provisions of section [221.05 or] 230.00 of the penal law, or who appears to be a sexually exploited child as defined in paragraph (a), (c) or (d) of subdivision one of section four hundred forty-seven-a of the social services law, but only if the child consents to the filing of a petition under this article.

§ 57. The state finance law is amended by adding a new section 99-ii to read as follows:


2. THE FUND SHALL CONSIST OF ALL MONIES APPROPRIATED FOR ITS PURPOSE, ALL MONIES TRANSFERRED TO SUCH FUND PURSUANT TO LAW AND ALL MONIES REQUIRED BY THE PROVISIONS OF THIS SECTION OR ANY OTHER LAW TO BE PAID INTO OR CREDITED TO THIS FUND, INCLUDING ALL MONIES RECEIVED BY THE FUND OR DONATED TO IT. MONIES IN THE FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES OTHERWISE APPROPRIATED OR RECEIVED EXCEPT AS HEREBY PROVIDED.

3. MONIES OF THE FUND, WHEN ALLOCATED, SHALL BE AVAILABLE TO THE BUREAU OF MARIHUANA POLICY FOR THE PURPOSE OF PROVIDING LOW INTEREST LOANS TO INDIVIDUALS AND BUSINESSES INTERESTED IN ESTABLISHING A MARIHUANA MICROBUSINESS OR OTHERWISE OBTAINING A LICENSE AVAILABLE FROM THE BUREAU OF MARIHUANA POLICY AND PARTICIPATING IN THE MARIHUANA INDUSTRY.

4. THE BUREAU OF MARIHUANA POLICY SHALL ESTABLISH THROUGH RULES AND REGULATIONS GUIDELINES NECESSARY TO ADMINISTER THE FUND. GUIDELINES SHALL INCLUDE, BUT NOT BE LIMITED TO: QUALIFICATIONS AND CONDITIONS FOR ASSISTANCE; TERMS OF LOAN OR INSTALLMENT PAYMENTS AND FINANCE CHARGES ON INSTALLMENT PAYMENTS AT RATES OF INTEREST WHICH, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ARE OF THE LOWEST RATE POSSIBLE TO MAINTAIN THE FUND; PRIORITIZE LOANS TO PROMOTE RACIAL, ETHNIC, AND GENDER DIVERSITY IN LICENSES FOR MARIHUANA RELATED ACTIVITIES; AND ANY OTHER TERMS AND CONDITIONS THE BUREAU MAY REQUIRE AS NECESSARY TO PROPERLY EFFECTUATE THE PROVISIONS OF THIS SECTION.

5. THE BUREAU OF MARIHUANA POLICY SHALL MAKE PUBLIC BY SEPTEMBER FIRST OF EACH YEAR A REPORT INCLUDING, BUT NOT LIMITED TO: THE CURRENT GUIDELINES OF THE FUND; A COMPLETE FINANCIAL STATEMENT INCLUDING, BUT NOT LIMITED TO, MONIES ALLOCATED, COLLECTED, TRANSFERRED OR OTHERWISE PAID OR CREDITED TO THE FUND; A PROJECTED SCHEDULE OF DISBURSEMENTS, RECEIPTS AND NEEDS OF THE FUND FOR THE NEXT FISCAL YEAR; AND THE NAMES AND BUSINESS ADDRESSES OF EACH CURRENT LOAN RECIPIENT.

6. NO MONIES SHALL BE PAYABLE FROM THIS FUND, EXCEPT ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED AND SUBMITTED BY THE BUREAU OF MARIHUANA POLICY.

§ 58. Appropriation. The sum of five million dollars ($5,000,000) is hereby appropriated to the New York State Liquor Authority out of any moneys in the state treasury in the general fund to the credit of the
state purposes account, not otherwise appropriated, and made immediately
available, for the purpose of carrying out the provisions of this act.
Such moneys shall be payable on the audit and warrant of the comptroller
on vouchers certified or approved by the superintendent or the chairman
of the New York State Liquor Authority in the manner prescribed by law.
§ 59. Severability. If any provision or term of this act is for any
reason declared unconstitutional or invalid or ineffective by any court
of competent jurisdiction, such decision shall not affect the validity
of the effectiveness of the remaining portions of this act or any part
thereof.
§ 60. This act shall take effect immediately; provided, however, that
the amendments to section 17 of the alcoholic beverage control law made
by section fifty-one of this act shall not affect the expiration and
reversion of such section and shall expire and be deemed repealed therewith,
when upon such date the provisions of section fifty-two of this
act shall take effect; provided further, however, that the amendments to
section 18 of the alcoholic beverage control law made by section fifty-three
of this act shall not affect the expiration and reversion of such
section and shall expire and be deemed repealed therewith, when upon
such date the provisions of section fifty-four of this act shall take
effect.


California Social Equity Program, available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1294
ETHICS OPINION 1024

New York State Bar Association
Committee on Professional Ethics

Opinion 1024 (9/29/14)

Topic: Counseling clients in illegal conduct; medical marijuana law.

Digest: In light of current federal enforcement policy, the New York Rules permit a lawyer to assist a client in conduct designed to comply with state medical marijuana law, notwithstanding that federal narcotics law prohibits the delivery, sale, possession and use of marijuana and makes no exception for medical marijuana.

Rules: 1.2(d), 1.2(f), 1.2 cmnt 9, 1.16(c)(2), 6.1 cmnt 1, 8.4(b).

FACTS

1. In July 2014, New York, following the lead of 22 other states, adopted the Compassionate Care Act ("CCA").[1] A law permitting the use of medical marijuana in tightly controlled circumstances. The CCA regulates the cultivation, distribution, prescription and use of marijuana for medical purposes. It permits specially approved organizations such as hospitals and community health centers to dispense medical marijuana to patients who have been certified by a health care provider and who have registered with the state Department of Health, and it further provides for the regulation and registration of organizations to manufacture and deliver marijuana for authorized medical uses.

2. At the same time, federal criminal law forbids the possession, distribution, sale or use of marijuana, and the federal law provides no exception for medical uses. The U.S. Department of Justice takes the position that the federal law is valid and enforceable even against individuals and entities engaged in the cultivation, transportation, delivery, prescription or use of medical marijuana in accordance with state regulatory law; however, the U.S. Department of Justice has adopted and published formal guidance restricting federal enforcement of the federal marijuana prohibition when individuals and entities act in accordance with state regulation of medical marijuana.

QUESTION

3. Under these unusual circumstances, do the New York Rules of Professional Conduct ("Rules") permit a lawyer to provide legal advice and assistance to doctors, patients, public officials, hospital administrators and others engaged in the cultivation, distribution, prescribing, dispensing, regulation, possession or use of marijuana for medical purposes to help them act in compliance with state regulation regarding medical marijuana and consistently with federal enforcement policy?

OPINION

4. Lawyers may advise clients about the lawfulness of their proposed conduct and assist them in complying with the law, but lawyers may not knowingly assist clients in illegal conduct. Rule 1.2(d) provides: "A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is illegal or fraudulent, except that the lawyer may discuss the legal consequences of any proposed course of conduct with a client." Disciplinary Rule 7-102(A)(7), contained in the pre-2009 Code of Professional Responsibility, was to the same effect. As this Committee has observed, if a client proposes to engage in conduct that is illegal, "then it would be unethical for an attorney to recommend the action or assist the client in carrying it out." N.Y. State 769 (2003); accord N.Y. State 666 (1994).
This ethical restriction reflects lawyers' fundamental role in the administration of justice, which is to promote compliance with the law by providing legal advice and assistance in structuring clients' conduct in accordance with the law. See also Rule 8.4(b) (forbidding "illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer"). Ideally, lawyers will not only attempt to prevent clients from engaging in knowing illegalities but also discourage clients from conduct of doubtful legality:

The most effective realization of the law's aims often takes place in the attorney's office, . . . where the lawyer's quiet counsel takes the place of public force. Contrary to popular belief, the compliance with the law thus brought about is not generally lip-serving and narrow, for by reminding him of its long-run costs the lawyer often deters his client from a course of conduct technically permissible under existing law, though inconsistent with its underlying spirit and purpose. . . .

The reasons that justify and even require partisan advocacy in the trial of a cause do not grant any license to the lawyer to participate as legal adviser in a line of conduct that is immoral, unfair, or of doubtful legality.

Am. Bar Ass'n & Ass'n of Am. Law Sch., Professional Responsibility Report of the Joint Conference, 44 A.B.A. J. 1159, 1161 (1958). The public importance of lawyers' role in promoting clients' legal compliance is reflected in the attorney-client privilege, which protects the confidentiality that is traditionally considered essential in order for lawyers to serve this role effectively. See, e.g., Hunt v. Blackburn, 128 U.S. 464, 470 (1888) (privilege "is founded upon the necessity, in the interest and administration of justice, of the aid of persons having knowledge of the law and skilled in its practice, which assistance can only be safely and readily availed of when free from the consequences or the apprehension of disclosure").

6. It is counter-intuitive to suppose that the lawyer's fundamental role might ever be served by assisting clients in violating a law that the lawyer knows to be valid and enforceable. But the question presented by the state's medical marijuana law is highly unusual if not unique: Although participating in the production, delivery or use of medical marijuana violates federal criminal law as written, the federal government has publicly announced that it is limiting its enforcement of this law, and has acted accordingly, insofar as individuals act consistently with state laws that legalize and extensively regulate medical marijuana. Both the state law and the publicly announced federal enforcement policy presuppose that individuals and entities will comply with new and intricate state regulatory law and, thus, presuppose that lawyers will provide legal advice and assistance to an array of public and private actors and institutions to promote their compliance with state law and current federal policy. Under these unusual circumstances, for the reasons discussed below, the Committee concludes that Rule 1.2(d) does not forbid lawyers from providing the necessary advice and assistance.

Legal background

7. Much has been written elsewhere about the interrelationship between federal criminal narcotics laws and recent state medical marijuana laws. For purposes of this opinion, only the following basic understanding is needed.

8. Under federal criminal law, marijuana is a Schedule I narcotic, whose manufacture, possession and distribution is prohibited, and for which there is no approved medical use. Further, individuals and entities are forbidden by federal law not only from violating these laws as principals, but also, under principles of accessoriable liability, from intentionally aiding and abetting others in violating the narcotics law, counseling others to violate the narcotics law, or conspiring with others to violate the narcotics law. [http://dx.doi.org/10.1285/i15900233/v7n1p72]

9. For many years, states likewise criminalized the manufacture, possession and distribution of marijuana, allowing for concurrent federal and state enforcement of the criminal law. Most prosecutions of narcotics laws, especially with regard to marijuana, occurred at the state and local level. However, in recent years, more than 20 states have legalized marijuana for medicinal purposes to make it available by prescription. Colorado and Washington have gone farther, developing regulation permitting the sale and use of marijuana for recreational purposes.

10. The U.S. Department of Justice ("DOJ") takes the position that the manufacture, possession and distribution of marijuana remains a federal crime, and can be enforced by federal law enforcement officials, even when the conduct in question is undertaken in accordance with state medical marijuana laws. However, current federal policy restricts federal enforcement activity, including civil as well as criminal enforcement, concerning medical marijuana. The Deputy Attorney General's August 29, 2013 memorandum, titled "Guidance Regarding Marijuana Enforcement," acknowledges that "the federal government has traditionally relied on state and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws," and the federal government has concentrated its effort in accordance with federal enforcement priorities, such as preventing the distribution of marijuana to minors, preventing revenue from marijuana sales from going to criminal enterprises, and preventing marijuana activity from being used as a cover for trafficking other drugs. The memorandum directs Department attorneys and federal law enforcement authorities to focus their enforcement resources and efforts on these priorities, which are less likely to be态势 "[In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana." Although the memorandum makes plain that it is not intended to create any enforceable substantive or procedural rights, the memorandum might fairly be read as an expression by the current Administration that it will not enforce the federal criminal law with regard to otherwise-lawful medical marijuana activities that are carried out in accordance with a robust state regulatory law and that do not implicate the identified federal enforcement priorities. Over the period of more than a year since the memorandum was published, federal law enforcement authorities have acted consistently with this understanding.

11. The CCA allows specified licensed New York physicians to prescribe, and patients to use, medical marijuana only in pill form or in a form that may be inhaled as a vapor, but not in a form that may be smoked. Medical marijuana may only be prescribed for identified, documented medical conditions categorized as "severely debilitating or life-threatening." The regulation of medical marijuana under the law will be overseen by the Health Department, which, among other things, will authorize and register a limited number of organizations ("Registered Organizations") to manufacture and dispense marijuana for medical use, will issue
registration cards to patients or their caregivers certified to receive medical marijuana, and will set prices. The law restricts those who may be hired by Registered Organizations, regulates their production and dispensation of medical marijuana, establishes a tax on their receipts, and criminalizes various abuses. See generally Francis J. Serbaroli, "A Primer on New York’s Medical Marijuana Law," NYLI, July 22, 2014, p. 3.

The potential role of lawyers in providing legal assistance regarding compliance with the medical marijuana law

12. Lawyers might provide a range of assistance to clients seeking to comply with the CCA and to act consistently with federal law enforcement policy. Among the potential clients are public officials and agencies including the Health Department that have responsibility for implementing the law, health care providers and other entities that may apply to be selected or potentially selected as Registered Organizations authorized to manufacture and dispense medical marijuana, physicians seeking to prescribe medical marijuana, and patients with severely debilitating or life-threatening conditions seeking to obtain medical marijuana. Any or all of these potential clients may seek legal assistance not only so that they may be advised how to comply with the state law and avoid running afoul of federal enforcement policy but also for affirmative legal assistance. The Health Department may seek lawyers’ help in establishing internal procedures to conduct the registrations and other activities contemplated by the law. Entities may seek assistance in applying to become Registered Organizations as well as in understanding and complying with employment, tax and other requirements of the law. Physicians may seek help in understanding the severe restrictions on the issuance of prescriptions for medical marijuana and in navigating the procedural requirements for effectively issuing such prescriptions.

13. Leaving aside the federal law, the above-described legal assistance would be entirely consistent with lawyers’ conventional role in helping clients comply with the law. Indeed, it seems fair to say that state law would not only permit but affirmatively expect lawyers to provide such assistance. In general, it is assumed that lawyers, by virtue of their expertise and ethical expectations, have a necessary role in ensuring the public’s compliance with the law. "As our society becomes one in which rights and responsibilities are increasingly defined in legal terms, access to legal services has become of critical importance." Rule 6.1, Cmt. [1]. This is especially true with regard to complex, technical regulatory schemes such as the one established by the CCA, and where, as in the case of the CCA, noncompliance can result in criminal prosecution.

14. However, the federal law cannot easily be left aside. The question of whether lawyers may serve their traditional role is complicated by the federal law. Assuming, as we do for purposes of this opinion, that the federal marijuana prohibition remains valid and enforceable notwithstanding state medical marijuana law, then individuals and entities seeking to dispense, prescribe or use medical marijuana, or to assist others in doing so, pursuant to the CCA would potentially be violating federal narcotics law as principals or accessories; in that event, the legal assistance sought from lawyers might involve assistance in conduct that the lawyer knows to be illegal.

Prior ethics opinions

15. Several other bar association ethics committees have confronted this problem but reached different conclusions under their counterparts to Rule 1.2(d). Most of these opinions pre-dated DOJ’s August 2013 guidance, but took account of a 2009 DOJ memorandum suggesting that federal law enforcement would not be directed at patients and their caregivers who are in “clear and unambiguous compliance” with state medical marijuana laws.

16. In 2010, Maine’s ethics committee took the view that although lawyers may assist clients in determining “the validity scope, meaning or application of the law,” the rule “forbids attorneys from assisting a client in engaging in the medical marijuana business” because the rule “does not make a distinction between crimes which are enforced and those which are not. . . . [An] attorney needs to . . . determine whether the particular legal service being requested rises to the level of assistance in violating federal law.” Maine Op. 199 (July 7, 2010).

17. Connecticut’s ethics committee similarly concluded that a lawyer may not assist a client insofar as its conduct, although authorized by the state’s medical marijuana law, which created a broad licensing and registration structure to be implemented by the Department of Consumer Protection, violates federal law. Connecticut Op. 2013-02 (Jan. 16, 2013). The opinion noted that much of the legal assistance sought by clients seeking to comply with the law (e.g., patients, caregivers, physicians, pharmacists, distributors and growers), such as legal advice and assistance regarding the law’s requirements and the rule-making and regulatory processes, would be consistent with lawyers’ “traditional role as counselors” and “in the classic mode envisioned by professional standards.” But some of that legal work might nevertheless constitute impermissible assistance in violating federal law.

18. More recently, in the context of Colorado’s state law decriminalizing and regulating the sale of marijuana for recreational purposes, the state’s ethics committee opined: “[U]nless and until there is a change in applicable federal law or in the Colorado Rules of Professional Conduct, a lawyer cannot advise a client regarding the full panoply of conduct permitted by the marijuana amendments to the Colorado Constitution and implementing statutes and regulations. To the extent that advice were to cross from advising or representing a client regarding the consequences of a client’s past or contemplated conduct under federal and state law to counseling the client to engage, or assisting the client, in conduct the lawyer knows is criminal under federal law, the lawyer would violate Rule 1.2(d).” Colorado Op. 125 (Oct. 21, 2013). However, the committee recommended amending the state ethics rules to authorize lawyers to advise and assist clients regarding marijuana-related conduct, notwithstanding contrary federal law.

19. In 2011, Arizona’s ethics committee reached a very different conclusion, however, based in significant part on the premise that "no court opinion has held that the state law is invalid or unenforceable on federal preemption grounds."
In these circumstances, we decline to interpret and apply ER 1.2(d) in a manner that would prevent a lawyer who concludes that the client’s proposed conduct is in “clear and unambiguous compliance” with state law from assisting the client in connection with activities expressly authorized under state law, thereby depriving clients of the very legal advice and assistance that is needed to engage in the conduct that the state law expressly permits. The maintenance of an independent legal profession, and of its right to advocate for the interests of clients, is a bulwark of our system of government. History is replete with examples of lawyers who, through vigorous advocacy and at great personal and professional cost to themselves, obtained the vindication of constitutional or other rights long denied or withheld and which otherwise could not have been secured.

A state law now expressly permits certain conduct. Legal services are necessary or desirable to implement and bring to fruition that conduct expressly permitted under state law. In any potential conflict between state and federal authority, such as may be presented by the interplay between the Act and federal law, lawyers have a critical role to perform in the activities that will lead to the proper resolution of the controversy. Although the Act may be found to be preempted by federal law or otherwise invalid, as of this time there has been no such judicial determination.

Arizona Op. 11-01 (Feb. 2011). The opinion concluded:

- If a client or potential client requests an Arizona lawyer’s assistance to undertake the specific actions that the Act expressly permits; and

- The lawyer advises the client with respect to the potential federal law implications and consequences thereof or, if the lawyer is not qualified to do so, advises the client to seek other legal counsel regarding those issues and limits the scope of his or her representation; and

- The client, having received full disclosure of the risks of proceeding under the state law, wishes to proceed with a course of action specifically authorized by the Act; then

- The lawyer ethically may perform such legal acts as are necessary or desirable to assist the client to engage in the conduct that is expressly permissible under the Act.

Id.

20. A recent opinion of the King County (Washington) Bar Association endorsed the Arizona committee’s conclusion and much of its reasoning.4 (http://dms/EEXECUTIVE/Kmcenery/Ethics%20Folder/Formal%20Opinions/Opns%2098%20-%2010/Opn%201034.doc#_ftn4) in the context of Washington’s adoption of a state-regulated system for producing and selling marijuana for recreational purposes:

While the KCBA does not agree with all components of the Arizona opinion, its emphasis on the client’s need for legal assistance to comply with state law accurately reflects the reality that Washington clients face in navigating the new Washington law. The initial proposed implementing regulations for I-502, for example, have added 49 new sections in the Washington Administrative Code encompassing 42 pages of text. These regulations are consistent with I-502’s express goal of removing the marijuana economy from the province of criminal organizations and bringing it into a “tightly regulated, state-licensed system.” In building this complex system, the voters of Washington could not have envisioned it working without attorneys. As the State Bar of Arizona recognized, disciplining attorneys for working within such a system would deprive the state’s citizens of legal services ‘necessary and desirable to implement and bring to fruition that conduct expressly permitted under state law.

KCBA Ethics Advisory Opinion on I-502 [Initiative 502 - marijuana legalization] & Rules of Professional Conduct (Oct. 2013). Following suit, the Washington State bar ethics committee recently proposed adding a Comment to the state’s ethics code and issuing an advisory opinion authorizing lawyers to assist clients in complying with the state marijuana law at least until federal enforcement policy changes.

Analysis

http://www.nysba.org/CustomTemplates/Content.aspx?id=52179
21. As Rule 1.2(d) makes clear, although a lawyer may not encourage a client to violate the law or assist a client in doing so, a lawyer may advise a client about the reach of the law. See N.Y. State 455 (1976) ("Where the lawyer does no more than advise his client concerning the legal character and consequences of the act, there can be no professional impropriety. That is his proper function and fully comports with the requirements of Canon 7. . . . But, where the lawyer becomes a motivating force by encouraging his client to commit illegal acts or undertakes to bring about a violation of law, he oversteps the bounds of propriety."). Thus, a lawyer may give advice about whether undertaking to manufacture, transport, sell, prescribe or use marijuana in accordance with the CCA's regulatory scheme would violate federal narcotics law. If the lawyer were to conclude competently and in good faith that the federal law was inapplicable or invalid, the lawyer could so advise the client and would not be subject to discipline even if the lawyer's advice later proved incorrect. See, e.g., ABA Op. 85-352 (1985) ("Where a lawyer has a good faith belief . . . that a particular transaction does not result in taxable income or that certain expenditures are properly deductible as expenses, the lawyer has no duty to request [disclosure] as a condition of his or her continued representation . . . . In the role of advisor, the lawyer should counsel the client as to whether the position is likely to be sustained by a court if challenged by the IRS, as well as of the potential penalty consequences to the client if the position is taken on the tax return without disclosure.") See also Matter of Vinluen v Doyle, 60 AD3d 237, 243, 873 NYS2d 72 (2d Dep't 2009).

We cannot conclude that an attorney who advises a client to take an action that he or she, in good faith, believes to be legal loses the protection of the First Amendment if his or her advice is later determined to be incorrect. Indeed, it would eviscerate the right to give and receive legal counsel with respect to potential criminal liability if an attorney could be charged with conspiracy and solicitation whenever a District Attorney disagreed with that advice. The potential impact of allowing an attorney to be prosecuted in circumstances such as those presented here is profoundly disturbing. A looming threat of criminal sanctions would deter attorneys from acquainting individuals with matters as vital as the breadth of their legal rights and the limits of those rights. Correspondingly, where counsel is restrained, so is the fundamental right of the citizenry, bound as it is by laws complex and unfamiliar, to receive the advice necessary for measured conduct.

22. Further, Rule 1.2(d) forbids a lawyer from assisting a client in conduct only if the lawyer knows the conduct is illegal or fraudulent. If the lawyer believes that conduct is unlawful but there is some support for an argument that the conduct is legal, the lawyer may provide legal assistance under the Rules (but is not obligated to do so). See Rule 1.2(f) ("A lawyer may refuse to advise or participate in conduct that the lawyer believes to be unlawful, even though there is some support for an argument that the conduct is legal."); see also Rule 1.16(c)(2) ("a lawyer may withdraw from representing a client when . . . the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent").

23. The difficult question arises if the lawyer knows that the client's proposed conduct, although consistent with state law, would violate valid and enforceable federal law. Ordinarily, in that event, while the lawyer could advise the client about the reach of the federal law and how to conform to the federal law, the lawyer could not properly encourage or assist the client in conduct that violates the federal law. That would ordinarily be true even if the federal law, although applicable to the client's proposed conduct, was not rigorously enforced and the lawyer anticipated that the law would not be enforced in the client's situation. See Charles W. Wolfram, Modern Legal Ethics 703 (1986) ("On the whole, lawyers serve the interests of society better if they urge upon clients the desirability of complying with all valid laws, no matter how widely violated by others they may be"). But the situation is different where the state executive branch determines to implement the state legislation by authorizing and regulating medical marijuana, consistent with current, published federal executive-branch enforcement policy, and the federal government does not take effective measures to prevent the implementation of the state law. In that event, the question under Rule 1.2(d) is whether a lawyer may assist in conduct under the state medical marijuana law that the lawyer knows would violate federal narcotics law that is on the books but deliberately unenforced as a matter of federal executive discretion.

24. This situation raises political and philosophical questions that this Committee cannot and need not resolve regarding how best to make and implement law in a federal system. Some may think it anomalous, where Congress has recognized no relevant exception to its narcotics prohibitions, for states to adopt medical marijuana laws that appear to contravene federal law and for the federal executive branch, through the exercise of prosecutorial discretion, effectively to carve out an exception for the implementation of these state laws. Others may think that DOJ's forbearance is consistent with its tradition, known to Congress, of exercising prosecutorial discretion to mitigate the criminal law's excesses, including where the criminal law reaches farther than its underlying purposes. We do not believe that by adopting Rule 1.2(d), our state judiciary meant to declare a position on this debate or meant to preclude lawyers from counseling or assisting conduct that is legal under state law. Rule 1.2(d) was based on an ABA model and there is no indication that anyone -- not the ABA, not the state bar, and not the state court itself -- specifically considered whether lawyers may serve in their traditional role in this sort of unusual legal situation. We assume for purposes of this Opinion that state courts will themselves serve in their traditional role: As issues of interpretation arise in litigation under the CCA, state courts will be available to issue interpretive rulings and take other judicial action that has the practical effect of assisting in the implementation of the CCA.

Serving this role will not undermine state judicial integrity. Similarly, we do not believe that it derogates from public respect for the law and lawyers, or otherwise undermines the objectives of the professional conduct rules, for lawyers as "officers of the court" to serve in their traditional role as well, if they so choose. Obviously, lawyers may decline to give legal assistance regarding the CCA.

25. We conclude that the New York Rules of Professional Conduct permit lawyers to give legal assistance regarding the CCA that goes beyond a mere discussion of the legality of the client's proposed conduct. In general, state professional conduct rules should be interpreted to promote state law, not to impede its effective implementation. As the Arizona and King County opinions recognized, a state medical-marijuana law establishing a complex regulatory scheme depends on lawyers for its success. Implicitly, the state law authorizes lawyers to provide traditional legal services to clients seeking to act in accordance with the state law. Further, and
crucially, in this situation the federal enforcement policy also depends on the availability of lawyers to establish and promote compliance with the "strong and effective regulatory and enforcement systems" that are said to justify federal forbearance from enforcement of narcotics laws that are technically applicable. The contemplated legal work is not designed to escape law enforcement by avoiding detection. Cf. Rule 1.2 cmt. [9] ("There is a critical distinction between presenting an analysis of the legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity."); N.Y. State 529 (1981) ("The Code distinguishes between giving legal advice and giving advice which would aid the client in escaping punishment for past crimes. EC 7-5 warns that 'a lawyer should never encourage or aid his client to commit criminal acts or counsel his client on how to violate the law and avoid punishment' "). Lawyers would assist clients who participate openly and subject to a state regulatory structure that the federal government allows to function as a matter of discretion. Nothing in the history and tradition of the profession, in court opinions, or elsewhere, suggests that Rule 1.2(d) was intended to prevent lawyers in a situation like this from providing assistance that is necessary to implement state law and to effectuate current federal policy. If federal enforcement were to change materially, this Opinion might need to be reconsidered.

CONCLUSION

26. In light of current federal enforcement policy, the New York Rules of Professional Conduct permit a lawyer to assist a client in conduct designed to comply with state medical marijuana law, notwithstanding that federal narcotics law prohibits the delivery, sale, possession and use of marijuana and makes no exception for medical marijuana.

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Laws of 2014, Chap. 90 (signed by the Governor and effective on July 5, 2014).

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See, e.g., 18 U.S.C. §2(a) ("Whoever commits an offense against the United States or aids,abetts, counsels, commands, induces or procures its commission, is punishable as a principal."); 18 U.S.C. § 2(b) ("Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal."); 21 U.S.C. § 846 ("Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.").

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Colorado added a new comments [14] to Rule 1.2 of the Colorado Rules of Professional Conduct, permitting a lawyer to counsel a client regarding the validity, scope and meaning of the Colorado marijuana law and to assist a client in conduct that the lawyer reasonably believes is permitted by that law, but the lawyer must also advise the client regarding related federal law and policy. Nevada adopted a new Comment [1] to Rule 1.2 that is substantively identical to Colorado Comment [14]. In Washington State, the King County Bar Association has urged the Washington Supreme Court to amend the Washington Rules of Professional Conduct to add a comment to Rule 8.4 and a new Rule 8.6, to make clear that conduct permitted by the state marijuana law does not reflect adversely on the lawyer’s honesty, trustworthiness or fitness in other respects, and that a lawyer is not subject to discipline for counseling or assisting a client in conduct permitted by the state marijuana law, even though the conduct may violate federal law. Those proposals were still pending when we issued this opinion.

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The King County opinion rejected the implication of the Arizona opinion that the propriety of the lawyer’s assistance turned on the fact that the state medical marijuana law had not yet been invalidated or preempted.

5Inasmuch as this Committee limits itself to interpreting the ethics rules, we take no view on whether a colorable argument can be made that the federal narcotics law is invalid or unenforceable in situations where individuals or entities transport, distribute, possess or use marijuana pursuant to state medical marijuana law. We note, however, that as a constitutional matter, duly enacted federal laws ordinarily preempt inconsistent state laws under the federal Supremacy Clause. We also note, in particular, that in Gonzales v. Raich, 545 U.S. 1 (2005), the Court rejected a claim that Congress exceeded its authority under the Commerce Clause insofar as the marijuana prohibition applied to personal use of marijuana for medical purposes.

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Rule 1.2(d) allows lawyers to assist clients in good faith challenges to a law’s validity, but that is not the situation posed here.

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If the state courts were to nullify the CCA based on inconsistent federal narcotics law, the question addressed in this opinion would, of course, become moot.

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For essentially the same reason, we regard Rule 8.4(b) as inapplicable. Assuming that a lawyer’s legal assistance in implementing the state medical-marijuana law technically violates the unenforced federal criminal law, we do not believe that the lawyer’s assistance under the circumstances described here would amount to “illegal conduct that adversely reflects on the lawyer’s honesty, trustworthiness or fitness as a lawyer.”