

Amendments to Senate S.1509; Assembly A.2009
(REVENUE Article VII Bill)

Part C, relating to providing a sourcing rule for global intangible low-taxed income apportionment is amended to:

- Make a technical correction to conform New York City's General Corporation Tax to the Banking Corporation Tax regarding the treatment of global intangible low-taxed income and foreign derived intangible income deduction.

Part J, Subpart D, relating to providing certain notification electronically, is amended to:

- Make a technical correction to clarify such notifications by e-mail.

Part P, relating to extending higher personal income tax rates for five years, is amended to:

- Make a technical correction to the tax bracket language.

Part T, relating to repealing license fees on certain co-ops, is amended to:

- Make a technical correction to exclude certain co-ops from Section 186-a of the Tax Law.

Part Z, relating to making technical corrections to various provisions of the Tax Law and New York City Administrative Code, is amended to:

- Make a technical correction to New York City's Unincorporated Business Tax regarding mandatory first installment.
- Make a technical correction to conform New York City's General Corporation Tax to the Banking Corporation Tax regarding the treatment of foreign derived intangible income deduction.
- Make a technical correction to conform New York City's General Corporation Tax to the Unincorporated Business Tax regarding the computation of the issuer's allocation percentage.

Part AA, relating to tax exemptions for energy systems, is amended to:

- Make a technical correction to include linear generator equipment.
- Make a technical correction so that Real Property Tax Law § 487 references Real Property Tax Law § 490.

Part UU, relating to taxing vapor products, is amended to:

- Make a technical correction to clarify the imposition of the vapor products excise tax.
- Make other minor technical corrections to the vapor products excise tax provisions language.

Part VV, relating to Cannabis Regulation and Taxation Act, is amended to:

- Make various technical corrections.

Part XX, relating to an excise tax on opioids, is added to:

- Create and impose an excise tax on the sale of opioids in New York State, while making various technical and conforming changes in Tax Law.

Amend Senate S1509, Assembly A2009, A BUDGET BILL, AN ACT to amend part U of the laws of 2011, amending the real property tax law...

Page	Line	Amendment
Page 4,	Unnumbered line 41 (AN ACT CLAUSE)	After "(Part VV);" strike out "and"
Page 4,	Unnumbered line 43 (AN ACT CLAUSE)	After "(Part WW)" insert "; and to amend the tax law in relation to imposing a tax on Opioids (Part XX)"
Page 4,	Line 4,	After "through" strike out "WW" and insert "XX"
Page 7,	Between lines 15 and 16,	<p>Insert "\$ 3. Subparagraph (2) of paragraph (a) of subdivision (3) of section 11-604 of the administrative code of the city of New York is amended by adding a new clause (E) to read as follows:</p> <p><u>(E) notwithstanding any other provision of this paragraph, net global intangible low-taxed income shall be included in the receipts fraction as provided in this clause. Receipts constituting net global intangible low-taxed income shall not be included in the numerator of the receipts fraction. Receipts constituting net global intangible low-taxed income shall be included in the denominator of the receipts fraction. For purposes of this clause, the term "net global intangible low-taxed income" means the amount that would have been required to be included in the taxpayer's federal gross income pursuant to subsection (a) of section 951A of the internal revenue code less the amount of the deduction that would have been allowed under clause (i) of section 250(a)(1)(B) of such code if the taxpayer had not made an election under subchapter s of chapter one of the internal revenue code.</u></p>
Page 7,	Line 16,	After "\$" strike out "3" and insert "4"
Page 22,	Line 1,	<p>After "discretion." insert "<u>When providing notice of a tentative determination by causing it to be posted on the department's website, the commissioner also shall e-mail the parties required by law to receive such notice, to inform them that the notice of tentative determination has been posted on the website. Such notice of tentative determination shall not be deemed complete unless such emails have been sent.</u>"</p>
Page 22,	Line 4,	After "e-mail" insert " <u>or posting</u> "
Page 22,	Line 13,	After "website posting," insert " <u>or both</u> "
Page 22,	Line 15,	<p>After "subdivision" insert "<u>When providing notice of a final determination by website posting, the commissioner also shall e-mail the parties required by law to receive such notice,</u></p>

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		to inform them that the notice of <u>final determination has been posted on the website. Such notice of final determination shall not be deemed complete unless such emails have been sent.</u> "
Page 30,	Line 30,	Before "\$2,155,350" strike out "Over"
Page 36,	Between lines 25 and 26,	After "described in" strike out " <u>subdivision</u> " and insert " <u>subdivisions</u> "
Page 36,	Line 26,	After "one" insert "or two"
Page 36 ,	Line 27,	After "such" strike out " <u>subdivision.</u> " and insert " <u>subdivisions or, in the case of cooperative corporations described in subdivision two of this section, the tax imposed under section one hundred eighty-six-a of the tax law.</u> "
Page 48 and 49,	Lines 44 through 2,	Strike out "\$ 7. Subparagraphs (A) and (B) of paragraph 1 of subdivision (d) of section 11-525 of the administrative code of the city of New York are amended to read as follows: (A) The tax shown on the return of the taxpayer for the preceding taxable year <u>or the second preceding taxable year, as applicable with respect to the taxpayer's declaration of estimated tax, if a return showing a liability for tax was filed by the taxpayer for [the] such preceding or second preceding taxable year and such preceding or second preceding year was a taxable year of twelve months, or</u> (B) An amount equal to the tax computed, at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on the taxpayer's return for, and the law applicable to, the preceding taxable year <u>or the second preceding taxable year, as applicable with respect to the taxpayer's declaration of estimated tax, or</u>
Page 49,	Line 3,	After "\$" strike out "8" and insert "7"
Page 49,	Line 17,	After "\$" strike out "9" and insert "8"
Page 49,	Between Lines 22 and 23,	Insert "\$ 9. Paragraph (b) of subdivision (8) of section 11-602 of the administrative code of the city of New York is amended by adding a new subparagraph (20) to read as follows: <u>(20) the amount of any federal deduction that would have been allowed pursuant to section 250(a)(1)(A) of the internal revenue code if the taxpayer had not made an election under subchapter s of chapter one of the internal revenue code.</u> § 10. Clause (i) of subparagraph (1) of paragraph (b) of subdivision (3) of section 11-604 of the administrative code of the city of New York is amended to read as follows:

Page	Line	Amendment
		(i) in the case of an issuer or obligor subject to tax under this subchapter, <u>subchapter three-A</u> or subchapter four of this chapter, or subject to tax as a utility corporation under chapter eleven of this title, the issuer's allocation percentage shall be the percentage of the appropriate measure (as defined hereinafter) which is required to be allocated within the city on the report or reports, if any, required of the issuer or obligor under this title for the preceding year. The appropriate measure referred to in the preceding sentence shall be: in the case of an issuer or obligor subject to this subchapter <u>or subchapter three-A</u> , entire capital; in the case of an issuer or obligor subject to subchapter four of this chapter, issued capital stock; in the case of an issuer or obligor subject to chapter eleven of this title as a utility corporation, gross income."
Page 49,	Line 23,	After "\$" strike out "10" and insert "11"
Page 49,	Line 35,	Before "of" strike out "seven and eight" and insert "and seven"
Page 49,	Line 38,	After "section" strike out "nine" and insert "eight"
Page 49,	Line 40,	After "2018" strike out "." and insert ";"
Page 49,	Between lines 40 and 41,	Insert "(vi) section nine of this act shall apply to taxable years beginning on and after January 1, 2018."
Page 49,	Line 48,	After " <u>equipment system</u> " strike out "or"
Page 49,	Line 49,	After "storage system" insert ", <u>or fuel-flexible linear generator</u> "
Page 50,	Line 50,	After " <u>(l)</u> " strike out "and" and insert " <u>l</u> " and After " <u>(n)</u> " insert " <u>l</u> , and <u>(o)</u> "
Page 50,	Line 17,	<p>After "\$ 2." insert "Section 490 of the real property tax law, as amended by chapter 87 of the laws of 2001, is amended to read as follows:</p> <p>§ 490. Exemption from special ad valorem levies and special assessments. Real property exempt from taxation pursuant to subdivision two of section four hundred, subdivision one of section four hundred four, subdivision one of section four hundred six, sections four hundred eight, four hundred ten, four hundred ten-a, four hundred ten-b, four hundred eighteen, four hundred twenty-a, four hundred twenty-b, four hundred twenty-two, four hundred twenty-six, four hundred twenty-seven, four hundred twenty-eight, four hundred thirty, four hundred thirty-two, four hundred thirty-four, four hundred thirty-six, four hundred thirty-eight, four</p>

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		<p>hundred fifty, four hundred fifty-two, four hundred fifty-four, four hundred fifty-six, four hundred sixty-four, four hundred seventy-two, four hundred seventy-four, [and] four hundred eighty-five and subdivision ten of section four hundred eighty-seven of this chapter shall also be exempt from special ad valorem levies and special assessments against real property located outside cities and villages for a special improvement or service or a special district improvement or service and special ad valorem levies and special assessments imposed by a county improvement district or district corporation except (1) those levied to pay for the costs, including interest and incidental and preliminary costs, of the acquisition, installation, construction, reconstruction and enlargement of or additions to the following improvements, including original equipment, furnishings, machinery or apparatus, and the replacements thereof: water supply and distribution systems; sewer systems (either sanitary or surface drainage or both, including purification, treatment or disposal plants or buildings); waterways and drainage improvements; street, highway, road and parkway improvements (including sidewalks, curbs, gutters, drainage, landscaping, grading or improving the right of way) and (2) special assessments payable in installments on an indebtedness including interest contracted prior to July first, nineteen hundred fifty-three, pursuant to section two hundred forty-two of the town law or pursuant to any other comparable provision of law.</p> <p>§ 3."</p>
Page 96,	Line 22,	After " <u>the tax</u> " insert "is"
Page 97,	Line 21,	After " <u>vapor</u> " strike out " <u>produces</u> " and insert " <u>products</u> "
Page 98,	Line 4,	After " <u>of</u> " strike out " <u>authority</u> " and insert " <u>registration</u> "
Page 96,	Lines 25 through 34,	<p>Strike out "<u>§ 1182. Imposition of compensating use tax. (a) Except to the extent that vapor products have already been or will be subject to the tax imposed by section eleven hundred eighty-one of this article, or are otherwise exempt under this article, there is hereby imposed a use tax on every use of vapor products by resident of this state.</u></p> <p><u>(b) The tax imposed by this section shall be at the rate of twenty percent of (1) the consideration given or contracted to be given for such vapor product purchased at retail; (2) the price at which items of the same kind of vapor products are sold by a manufacturer of such vapor products in the regular course of his</u></p>

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		<p>or her business." and insert "\$ 1182. Imposition of compensating use tax. (a) Except to the extent that vapor products have already been or will be subject to the tax imposed by section eleven hundred eighty-one of this article, or are otherwise exempt under this article, there is hereby imposed a use tax on every use within the state of vapor products: (1) purchased at retail; and (2) manufactured or processed by the user if items of the same kind are sold by him or her in the regular course of his or her business.</p> <p>(b) For purposes of paragraph one of subdivision (a) of this section, the tax shall be at the rate of twenty percent of the consideration given or contracted to be given for such vapor product purchased at retail. For purposes of paragraph two of subdivision (a) of this section, the tax shall be at the rate of twenty percent of the price at which such items of the same kind of vapor product are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of such vapor product by the person that manufactured or processed such vapor product shall not be deemed a taxable use by him or her."</p>
Page 100,	Line 32,	After "cannabis" strike out "related"
Page 101,	Line 54,	After "include," strike out "but not limited to,"
Page 101,	Line 56,	After "cannabis" insert ", or such other cultivation related processes as determined by the executive director in regulation"
Page 103,	Line 41,	After "includes," strike out "but is not limited to,"
Page 103,	Line 43,	After "products" insert ", or such other related processes as determined by the executive director in regulation"
Page 106,	Line 55,	After "products," strike out "and"
Page 106,	Line 55,	After "cannabis" insert ", and hemp cannabis"
Page 107,	Line 4,	After "products," strike out "including"
Page 107,	Line 4,	After "cannabis," insert "and hemp cannabis,"
Page 111,	Line 36,	After "use." strike out "1."
Page 112,	Lines 9 through 15,	Strike out "2. Notwithstanding subdivision one of this section: (a) possession of medical cannabis shall not be lawful under this article if it is smoked or grown in a public place, regardless of the form of medical cannabis"

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		stated in the patient's certification. (b) a person possessing medical cannabis under this chapter shall possess his or her registry identification card at all times when in immediate possession of medical cannabis."
Page 118,	Line 20,	After "employees" insert "; and the maintenance of such a labor peace agreement shall be an ongoing material condition of registration"
Page 124,	Line 50,	After "85." strike out "Collective bargaining." and insert "Regulations."
Page 124,	Line 51,	Strike out "86. Regulations."
Page 127,	Line 17,	After "employees" insert ", and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure"
Page 127,	Line 21,	After "state," strike out "or" and insert "and"
Page 127,	Line 23,	After "communities" insert ", the workforce"
Page 128,	Line 16,	After "revoked." insert "5. Each applicant must maintain a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure."
Page 139,	Between lines 4 and 5,	After "shall" strike out "have a duty to"
Page 139,	Line 21,	After "cannabis" strike out "related"
Page 141,	Line 34 through 41,	Strike out "\$ 85. Collective bargaining. 1. The executive director shall require all licensees under this article with more than twenty-five employees, including registered organizations authorized pursuant to section forty of this chapter to cultivate, process, distribute and sell adult-use cannabis products, to enter into a bona-fide collective bargaining agreement with a bona-fide labor organization. 2. The maintenance of such a collective bargaining agreement shall be an ongoing material condition of the entity's license."
Page 141,	Line 42,	After "\$" strike out "86." and insert "85."
Page 141,	Line 46,	After "hemp" insert "cannabis"
Page 142,	Line 13,	After "hemp" insert "cannabis"
Page 142,	Line 41,	After "as" strike out "a" and insert "an industrial"
Page 142,	Line 43,	After "of" insert "industrial"

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Page 142,	Line 43,	After "hemp" insert "cannabis"
Page 142,	Line 48,	After "hemp" insert "cannabis"
Page 142,	Line 48,	After "hemp" insert "cannabis"
Page 153,	Between lines 18 and 19,	After "regulations," strike out "in consultation with the commissioner of the department of health,"
Page 154,	Line 45,	After "However," insert "counties and,"
Page 167,	Lines 34 through 35,	After " <u>thereof;</u> " strike out " <u>the resin extracted from any part of the plant;</u> "
Page 167,	Line 36,	After " <u>plant,</u> " insert " <u>or</u> "
Page 167,	Line 36,	After " <u>seeds</u> " strike out " <u>or resin</u> "
Page 167,	Line 40,	Before " <u>, fiber</u> " strike out " <u>(except the resin extracted therefrom)</u> "
Pages 167 through 168,	Lines 55 through 6,	After "law," strike out "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] <u>subdivision twenty-one of section 220.00 of this article</u> and said preparations, compounds, mixtures or substances are of an aggregate weight of one-fourth ounce or more; or" and insert "is REPEALED."
Page 168,	Lines 7 through 14,	After "law," strikeout "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] <u>subdivision twenty-one of section 220.00 of this article</u> and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more; or" and insert "is REPEALED."
Page 168,	Lines 15 through 19,	After "law," strikeout "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] <u>subdivision twenty-one of section 220.00 of this article;</u> or" and insert "is REPEALED."

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Page 169,	Line 16,	Before "one" insert "[" and after "hundred" insert "]"
Page 170,	Line 6,	After "ten" strike out "ounces" and insert "grams"
Page 172,	Line 30,	After "law" insert " <u>and the sole controlled substance involved is cannabis</u> "
Page 172,	Line 31,	After "of" strike out "article two hundred twenty-one" and insert "[article two hundred twenty-one] <u>section 221.05, 221.10, or 221.35</u> "
Page 172,	Lines 31 through 34,	<p>After "law;" strike out "(ii) the sole controlled substance involved is [marijuana] <u>cannabis; and (iii)the conviction was only for a violation or violations[; and (iv) at least three years have passed since the offense occurred]."</u></p> <p>Insert "[<u>(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.] 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."</u></p>
Page 172,	Between lines 34 and 35,	<p>Insert "<u>§ 27-a. 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:</u></p> <p><u>(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]</u></p> <p><u>(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[.];</u></p> <p><u>or</u></p> <p><u>(j) The judgment occurred prior to the effective date of this paragraph and is a conviction for:</u></p> <p><u>(i) an offense as defined by section 221.05 or 221.10 of the penal law as in effect prior to the effective date of this paragraph, provided that the accusatory instrument that underlies</u></p>

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		<u>the judgment does not include an allegation that the defendant possessed more than twenty-five grams of cannabis."</u>
Page 172,	Between lines 47 and 48,	After "law" strike out "and cannabis and concentrated cannabis as defined in section 220.00 of the penal law." and insert " <u>and any substance or combination of substances that impair, to any extent, physical or mental abilities."</u>
Page 173,	Line 15,	After "33." strike out "the paragraph heading and subparagraph (i) of"
Page 173,	Line 17,	After "2013," strike out "are amended" and Insert "is amended by adding a new subparagraph (i-a)"
Page 173,	Lines 18 through 34,	Strike out "Felony offenses. (i) A person who operates a vehicle (A) in violation of subdivision <u>four-a of section eleven hundred ninety-two of this article or in violation of subdivision two, two-a, three, or four</u> [or four-a] of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, within the preceding ten years, or (B) in violation of paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article shall be guilty of a class E felony, and shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment." and insert " <u>(i-a) A violation of subdivision four-a of section eleven hundred ninety-two of this article shall be a class E felony, and shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment."</u>
Page 173,	Line 35,	Insert "§33-a. Paragraph (b) of subdivision 1 of section 1194 of the vehicle and traffic law, as amended by chapter 406 of the laws of 1988, is amended to read as follows: (b) Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a

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		<p>police officer, submit to a breath and/or saliva test to be administered by the police officer. If such test <u>or tests</u> indicate[s] that such operator has <u>consumed alcohol or drug or drugs</u>, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision two of this section."</p>
Page 179,	Between lines 38 and 39,	After "trim" strike out "cannabis pursuant to the cannabis law"
Page 194,	Between lines 43 and 44,	<p>Insert "§ 63-b. The criminal procedure law is amended by adding a new section 440.46-a to read as follows: <u>§ 440.46-a motion for resentencing; persons convicted of certain marijuana offenses.</u></p> <p><u>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.</u></p> <p><u>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.</u></p> <p><u>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 following 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, whichever 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</u></p>

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		<p>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 agreement. 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, whether by trial or 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 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 subdivision 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 petition or application. 10. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner</p>

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		<p><u>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."</u></p>
Page 196,	Between Lines 45 and 45,	Insert New Part XX (LBD# 74056-02-9)
Page 196,	line 55,	After "through" strike out "WW" and insert "XX"

for both tobacco products and electronic cigarettes; prohibiting the display of tobacco products or electronic cigarettes in stores; clarifying that the department of health has the authority to promulgate regulations that restrict the sale or distribution of electronic cigarettes or electronic liquids that have a characterizing flavor, and the use of names for characterizing flavors; prohibiting smoking inside and on the grounds of all hospitals licensed or operated by the office of mental health; taxing electronic liquid; and requiring that electronic cigarettes be sold only through licensed vapor products retailers; to amend the general business law, in relation to the packaging of vapor products; to amend the tax law, in relation to imposing a supplemental tax on vapor products; to amend the state finance law, in relation to adding revenues from the supplemental tax on vapor products to the health care reform act resource fund; and repealing paragraph (e) of subdivision 1 of section 1399-cc of the public health law relating to the definitions of nicotine, electronic liquid and e-liquid (Part UU); relating to constituting a new chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of cannabis; to amend the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; to amend the tax law, in relation to providing for the levying taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to repeal sections 221.10 and 221.30 of the penal law relating to the criminal possession and sale of cannabis; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; and making an appropriation therefor (Part VV); and to amend the tax law, in relation to imposing a special tax on passenger car rentals outside of the metropolitan commuter transportation district (Part WW).

and to amend the tax law in relation to imposing a new tax on opioids (Part XX)

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

- 1 Section 1. This act enacts into law major components of legislation
- 2 which are necessary to implement the state fiscal plan for the 2019-2020
- 3 state fiscal year. Each component is wholly contained within a Part
- 4 identified as Parts A through WW. The effective date for each particular
- 5 provision contained within such Part is set forth in the last section of
- 6 such Part. Any provision in any section contained within a Part,
- 7 including the effective date of the Part, which makes reference to a
- 8 section "of this act", when used in connection with that particular

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1 internal revenue code less the amount of the deduction allowed under
 2 clause (i) of section 250(a)(1)(B) of such code.

3 § 2. Section 11-654.2 of the administrative code of the city of New
 4 York is amended by adding a new subdivision 5-a to read as follows:

5 5-a. Notwithstanding any other provision of this section, net global
 6 intangible low-taxed income shall be included in the receipts fraction
 7 as provided in this subdivision. Receipts constituting net global
 8 intangible low-taxed income shall not be included in the numerator of
 9 the receipts fraction. Receipts constituting net global intangible low-
 10 taxed income shall be included in the denominator of the receipts frac-
 11 tion. For purposes of this subdivision, the term "net global intangible
 12 low-taxed income" means the amount required to be included in the
 13 taxpayer's federal gross income pursuant to subsection (a) of section
 14 951A of the internal revenue code less the amount of the deduction
 15 allowed under clause (i) of section 250(a)(1)(B) of such code.

16 § 2. This act shall take effect immediately and shall apply to taxable
 17 years beginning on or after January 1, 2018.

18 4

PART D

19 Section 1. Subparagraph (vi) of paragraph (a) of subdivision 1 of
 20 section 210 of the tax law, as amended by section 11 of part T of chap-
 21 ter 59 of the laws of 2015, is amended to read as follows:

22 (vi) for taxable years beginning on or after January first, two thou-
 23 sand fourteen, the amount prescribed by this paragraph for a taxpayer
 24 [which] that is a qualified New York manufacturer, shall be computed at
 25 the rate of zero percent of the taxpayer's business income base. The
 26 term "manufacturer" shall mean a taxpayer [which] that during the taxa-
 27 ble year is principally engaged in the production of goods by manufac-
 28 turing, processing, assembling, refining, mining, extracting, farming,
 29 agriculture, horticulture, floriculture, viticulture or commercial fish-
 30 ing. However, the generation and distribution of electricity, the
 31 distribution of natural gas, and the production of steam associated with
 32 the generation of electricity shall not be qualifying activities for a
 33 manufacturer under this subparagraph. Moreover, in the case of a
 34 combined report, the combined group shall be considered a "manufacturer"
 35 for purposes of this subparagraph only if the combined group during the
 36 taxable year is principally engaged in the activities set forth in this
 37 paragraph, or any combination thereof. A taxpayer or, in the case of a
 38 combined report, a combined group shall be "principally engaged" in
 39 activities described above if, during the taxable year, more than fifty
 40 percent of the gross receipts of the taxpayer or combined group, respec-
 41 tively, are derived from receipts from the sale of goods produced by
 42 such activities. In computing a combined group's gross receipts, inter-
 43 corporate receipts shall be eliminated. A "qualified New York manufac-
 44 turer" is a manufacturer [which] that has property in New York [which]
 45 that is described in clause (A) of subparagraph (i) of paragraph (b) of
 46 subdivision one of section two hundred ten-B of this article and either
 47 (I) the adjusted basis of such property for [federal income] New York
 48 state tax purposes at the close of the taxable year is at least one
 49 million dollars or (II) all of its real and personal property is located
 50 in New York. A taxpayer or, in the case of a combined report, a combined
 51 group, that does not satisfy the principally engaged test may be a qual-
 52 ified New York manufacturer if the taxpayer or the combined group
 53 employs during the taxable year at least two thousand five hundred
 54 employees in manufacturing in New York and the taxpayer or the combined



Insert B

1 or her discretion. Notwithstanding any provision of law to the contrary,
2 the commissioner shall not be required to furnish such notices by postal
3 mail, except as provided by paragraphs (d) and (e) of this subdivision.

or posting

4 (b) When providing notice of a tentative determination by e-mail
5 pursuant to this subdivision, the commissioner shall specify an e-mail
6 address to which complaints regarding such tentative determination may
7 be sent. A complaint that is sent to the commissioner by e-mail to the
8 specified e-mail address by the date prescribed by law for the mailing
9 of such complaints shall be deemed valid to the same extent as if it had
10 been sent by postal mail.

11 (c) When a final determination is made in such a matter, notice of the
12 final determination and any certificate relating thereto shall be
13 furnished by e-mail or by a website posting, (at the commissioner's
14 discretion, and need not be provided by postal mail, except as provided
15 by paragraphs (d) and (e) of this subdivision. *Insert C*

or both,

16 (d) If an assessor has advised the commissioner in writing that he or
17 she prefers to receive the notices described in this subdivision by
18 postal mail, the commissioner shall thereafter send such notices to that
19 assessor by postal mail, and need not send such notices to that assessor
20 by e-mail. The commissioner shall prescribe a form that assessors may
21 use to advise the commissioner of their preference for postal mail.

22 (e) If the commissioner learns that an e-mail address to which a
23 notice has been sent pursuant to this subdivision is not valid, and the
24 commissioner cannot find a valid e-mail address for that party, the
25 commissioner shall resend the notice to the party by postal mail. If the
26 commissioner does not have a valid e-mail address for the party at the
27 time the notice is initially required to be sent, the commissioner shall
28 send the notice to that party by postal mail.

29 (f) On or before November thirtieth, two thousand nineteen, the
30 commissioner shall send a notice by postal mail to assessors, to chief
31 executive officers of assessing units, and to owners of special fran-
32 chise property and railroad property, informing them of the provisions
33 of this section. The notice to be sent to assessors shall include a
34 copy of the form prescribed pursuant to paragraph (d) of this subdivi-
35 sion.

36 (g) As used in this subdivision, the term "postal mail" shall mean
37 mail that is physically delivered to the addressee by the United States
38 postal service.

39 § 2. This act shall take effect immediately.

40

SUBPART E

41 Section 1. Subdivision 4 of section 302 of the real property tax law,
42 as amended by chapter 348 of the laws of 2007, is amended to read as
43 follows:

44 4. The taxable status of a special franchise shall be determined on
45 the basis of its value and its ownership as of the first day of [July]
46 January of the year preceding the year in which the assessment roll on
47 which such property is to be assessed is completed and filed in the
48 office of the city or town clerk, except that taxable status of such
49 properties shall be determined on the basis of ownership as of the first
50 day of [July] January of the second year preceding the date required by
51 law for the filing of the final assessment roll for purposes of all
52 village assessment rolls.

53 § 2. Subdivision 2 of section 606 of the real property tax law, as
54 amended by chapter 743 of the laws of 2005 and as further amended by

1 (vi) For taxable years beginning in two thousand twenty-three the
2 following rates shall apply:

3 If the New York taxable income is:	The tax is:
4 Not over \$17,150	4% of the New York taxable income
5 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over 6 \$17,150
7 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over 8 \$23,600
9 Over \$27,900 but not over \$161,550	\$1,202 plus 5.73% of excess over 10 \$27,900
11 Over \$161,550 but not over \$323,200	\$8,860 plus 6.17% of excess over 12 \$161,550
13 Over \$323,200 <u>but not over</u>	\$18,834 plus 6.85% of
14 <u>\$2,155,350</u>	excess over \$323,200
15 <u>Over \$2,155,350</u>	<u>\$144,336 plus 8.82% of excess over</u> 16 <u>\$2,155,350</u>

17 (vii) For taxable years beginning in two thousand twenty-four the
18 following rates shall apply:

19 If the New York taxable income is:	The tax is:
20 Not over \$17,150	4% of the New York taxable income
21 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over 22 \$17,150
23 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over 24 \$23,600
25 Over \$27,900 but not over \$161,550	\$1,202 plus 5.61% of excess over 26 \$27,900
27 Over \$161,550 but not over \$323,200	\$8,700 plus 6.09% of excess over 28 \$161,550
29 Over \$323,200 <u>but not over</u>	\$18,544 plus 6.85% of
30 Over \$2,155,350	excess over \$323,200
31 <u>Over \$2,155,350</u>	<u>\$144,047 plus 8.82% of excess over</u> 32 <u>\$2,155,350</u>

33 § 2. Clauses (iii), (iv), (v), (vi) and (vii) of subparagraph (B) of
34 paragraph 1 of subsection (b) of section 601 of the tax law, as added by
35 section 2 of part R of chapter 59 of the laws of 2017, are amended to
36 read as follows:

37 (iii) For taxable years beginning in two thousand twenty the following
38 rates shall apply:

39 If the New York taxable income is:	The tax is:
40 Not over \$12,800	4% of the New York taxable income
41 Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over \$12,800
42 Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over 43 \$17,650
44 Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over \$20,900
45 Over \$32,200 but not over \$107,650	\$1,568 plus 6.09% of excess over 46 \$32,200
47 Over \$107,650 but not over \$269,300	\$6,162 plus 6.41% of excess over 48 \$107,650
49 Over \$269,300 <u>but not over</u>	\$16,524 plus 6.85% of
50 <u>\$1,616,450</u>	excess over \$269,300
51 <u>Over \$1,616,450</u>	<u>\$108,804 plus 8.82% of excess over</u> 52 <u>\$1,616,450</u>

53 (iv) For taxable years beginning in two thousand twenty-one the
54 following rates shall apply:

1 be allowed for bioheating fuel, used for space heating or hot water
 2 production for residential purposes within this state and purchased on
 3 or after July first, two thousand six and before July first, two thou-
 4 sand seven and on or after January first, two thousand eight and before
 5 January first, two thousand [twenty] twenty-three. Such credit shall be
 6 \$0.01 per percent of biodiesel per gallon of bioheating fuel, not to
 7 exceed twenty cents per gallon, purchased by such taxpayer. Provided,
 8 however, that on or after January first, two thousand seventeen, this
 9 credit shall not apply to bioheating fuel that is less than six percent
 10 biodiesel per gallon of bioheating fuel.
 11 § 3. This act shall take effect immediately.

PART S

13 Section 1. Subdivision (e) of section 23 of the part U of chapter 61
 14 of the laws of 2011, amending the real property tax law and other laws
 15 relating to establishing standards for electronic tax administration is
 16 REPEALED.
 17 § 2. This act shall take effect immediately.

PART T

19 Section 1. Subdivision 3 of section 77 of the cooperative corporations
 20 law, as amended by chapter 429 of the laws of 1992, is amended to read
 21 as follows:

22 3: Such annual fee shall be paid for each calendar year on the
 23 fifteenth day of March next succeeding the close of such calendar year
 24 but shall not be payable after January first, two thousand twenty;
 25 provided, however, that cooperative corporations described in subdivi-
 26 sions one of this section shall continue to not be subject to the fran-
 27 chise, license, and corporation taxes referenced in such subdivision.

28 § 2. Section 66 of the rural electric cooperative law, as amended by
 29 chapter 888 of the laws of 1983, is amended to read as follows:

30 § 66. License fee in lieu of all franchise, excise, income, corpo-
 31 ration and sales and compensating use taxes. Each cooperative and
 32 foreign corporation doing business in this state pursuant to this chap-
 33 ter shall pay annually, on or before the first day of July, to the state
 34 tax commission, a fee of ten dollars, but shall be exempt from all other
 35 franchise, excise, income, corporation and sales and compensating use
 36 taxes whatsoever. The exemption from the sales and compensating use
 37 taxes provided by this section shall not apply to the taxes imposed
 38 pursuant to section eleven hundred seven or eleven hundred eight of the
 39 tax law. Nothing contained in this section shall be deemed to exempt
 40 such corporations from collecting and paying over sales and compensating
 41 use taxes on retail sales of tangible personal property and services
 42 made by such corporations to purchasers required to pay such taxes
 43 imposed pursuant to article twenty-eight or authorized pursuant to the
 44 authority of article twenty-nine of the tax law. Such annual fee shall
 45 not be payable after January first, two thousand twenty.

46 § 3. This act shall take effect immediately.

PART U

48 Section 1. Paragraph (e) of subdivision 26 of section 210-B of the tax
 49 law, as amended by section 2 of part RR of chapter 59 of the laws of
 50 2018, is amended to read as follows:

*subdivisions or, in
 the case of
 cooperative
 cooperations
 described in
 subdivision tw
 of this section
 the tax imposed
 under section
 one-hundred
 eighty-six-a
 of the tax law.*

or two

1 § 5. Subdivision (e) of section 213-b of the tax law, as amended by
2 chapter 166 of the laws of 1991, the subdivision heading as amended by
3 section 10-b of part Q of chapter 60 of the laws of 2016, is amended to
4 read as follows:

5 (e) Interest on certain installments based on the second preceding
6 year's tax.--Notwithstanding the provisions of section one thousand
7 eighty-eight of this chapter or of section sixteen of the state finance
8 law, if an amount paid pursuant to subdivision (a) exceeds the tax or
9 tax surcharge, respectively, shown on the report required to be filed by
10 the taxpayer for the privilege period during which the amount was paid,
11 interest shall be allowed and paid on the amount by which the amount so
12 paid pursuant to such subdivision exceeds such tax or tax surcharge. In
13 the case of amounts so paid pursuant to subdivision (a), such interest
14 shall be allowed and paid at the overpayment rate set by the commission-
15 er of taxation and finance pursuant to section one thousand ninety-six
16 of this chapter, or if no rate is set, at the rate of six per centum per
17 annum from the date of payment of the amount so paid pursuant to such
18 subdivision to the fifteenth day of the [third] fourth month following
19 the close of the taxable year, provided, however, that no interest shall
20 be allowed or paid under this subdivision if the amount thereof is less
21 than one dollar or if such interest becomes payable solely because of a
22 carryback of a net operating loss in a subsequent privilege period.

23 § 6. Subdivision (a) of section 1503 of the tax law, as amended by
24 chapter 817 of the laws of 1987, is amended to read as follows:

25 (a) The entire net income of a taxpayer shall be its total net income
26 from all sources which shall be presumably the same as the life insur-
27 ance company taxable income (which shall include, in the case of a stock
28 life insurance company [which] that has a balance, as determined as of
29 the close of such company's last taxable year beginning before January
30 first, two thousand eighteen, in an existing policyholders surplus
31 account, as such term is defined in section 815 of the internal revenue
32 code as such section was in effect for taxable years beginning before
33 January first, two thousand eighteen, the amount of [direct and indirect
34 distributions during the taxable year to shareholders from such account]
35 one-eighth of such balance), taxable income of a partnership or taxable
36 income, but not alternative minimum taxable income, as the case may be,
37 which the taxpayer is required to report to the United States treasury
38 department, for the taxable year or, in the case of a corporation exempt
39 from federal income tax (other than the tax on unrelated business taxa-
40 ble income imposed under section 511 of the internal revenue code) but
41 not exempt from tax under section fifteen hundred one, the taxable
42 income which such taxpayer would have been required to report but for
43 such exemption, except as hereinafter provided.

44 ~~§ 7. Subparagraphs (A) and (B) of paragraph 1 of subdivision (d) of~~
45 ~~section 11-525 of the administrative code of the city of New York are~~
46 ~~amended to read as follows:~~

47 ~~(A) The tax shown on the return of the taxpayer for the preceding~~
48 ~~taxable year or the second preceding taxable year, as applicable with~~
49 ~~respect to the taxpayer's declaration of estimated tax, if a return~~
50 ~~showing a liability for tax was filed by the taxpayer for [the] such~~
51 ~~preceding or second preceding taxable year and such preceding or second~~
52 ~~preceding year was a taxable year of twelve months, or~~

53 ~~(B) An amount equal to the tax computed, at the rates applicable to~~
54 ~~the taxable year, but otherwise on the basis of the facts shown on the~~
55 ~~taxpayer's return for, and the law applicable to, the preceding taxable~~

~~1 year or the second preceding taxable year, as applicable with respect to
2 the taxpayer's declaration of estimated tax, or~~

3 ~~§ 8.~~ Paragraphs (a) and (b) of subdivision 4 of section 11-676 of the
4 administrative code of the city of New York are amended to read as
5 follows:

6 (a) The tax shown on the return of the taxpayer for the preceding
7 taxable year or the second preceding taxable year, as applicable with
8 respect to the taxpayer's declaration of estimated tax, if a return
9 showing a liability for tax was filed by the taxpayer for [the] such
10 preceding or second preceding taxable year and such preceding or second
11 preceding year was a taxable year of twelve months, or

12 (b) An amount equal to the tax computed at the rates applicable to the
13 taxable year, but otherwise on the basis of the facts shown on the
14 return of the taxpayer for, and the law applicable to, the preceding
15 taxable year or the second preceding taxable year, as applicable with
16 respect to the taxpayer's declaration of estimated tax, or

17 ~~§ 8.~~ Section 2 of chapter 369 of the laws of 2018 amending the tax law
18 relating to unrelated business taxable income of a taxpayer, is amended
19 to read as follows:

20 § 2. This act shall take effect immediately and shall apply to [taxa-
21 ble years beginning] amounts paid or incurred on and after January 1,
22 2018.

23 ~~§ 18.~~ This act shall take effect immediately, provided, however, that:
24 (i) section one of this act shall be deemed to have been in full force
25 and effect on and after the effective date of part K of chapter 59 of
26 the laws of 2017;

27 (ii) sections two and six of this act shall be deemed to have been in
28 full force and effect on and after the effective date of part KK of
29 chapter 59 of the laws of 2018; provided, however, that section six of
30 this act shall apply to taxable years beginning on or after January 1,
31 2018 through taxable years beginning on or before January 1, 2025;

32 (iii) section three of this act shall be deemed to have been in full
33 force and effect on and after the effective date of part A of chapter 59
34 of the laws of 2014;

35 (iv) sections four, five, ~~seven and eight~~ ^{and seven} of this act shall be deemed
36 to have been in full force and effect on and after the effective date of
37 part Q of chapter 60 of the laws of 2016;

38 (v) section ~~nine~~ of this act shall be deemed to have been in full
39 force and effect on and after the effective date of chapter 369 of the
40 laws of 2018;

41 (vi) Section nine of this act shall apply to taxable years beginning on and after
January 1, 2018.

PART AA

42 Section 1. Section 487 of the real property tax law is amended by
43 adding a new subdivision 10 to read as follows:

44 10. Notwithstanding the foregoing provisions of this section, on or
45 after April first, two thousand nineteen, real property that comprises
46 or includes a solar or wind energy system, farm waste energy system,
47 microhydroelectric energy system, fuel cell electric generating system,
48 microcombined heat and power generating equipment system, or electric
49 energy storage system, as such terms are defined in paragraphs (b), (f),

50 (h), (j), (l), and (n) of subdivision one of this section (hereinafter,
51 individually or collectively, "energy system"), shall be exempt from any
52 taxation, special ad valorem levies, and special assessments to the
53 extent provided in section four hundred ninety of this article, and the
54 owner of such property shall not be subject to any requirement to enter

), or fuel-flexible linear generator

7
8
Insert D
eight

1 into a contract for payments in lieu of taxes in accordance with subdi-
2 vision nine of this section, if: (a) the energy system is installed on
3 real property that is owned or controlled by the state of New York, a
4 department or agency thereof, or a state authority as that term is
5 defined by subdivision one of section two of the public authorities law;
6 and (b) the state of New York, a department or agency thereof, or a
7 state authority as that term is defined by subdivision one of section
8 two of the public authorities law has agreed to purchase the energy
9 produced by such energy system or the environmental credits or attri-
10 butes created by virtue of the energy system's operation, in accordance
11 with a written agreement with the owner or operator of such energy
12 system. Such exemption shall be granted only upon application by the
13 owner of the real property on a form prescribed by the commissioner,
14 which application shall be filed with the assessor of the appropriate
15 county, city, town or village on or before the taxable status date of
16 such county, city, town or village.
17 § 2. This act shall take effect immediately.

18

Insert E

PART BB

19 Section 1. Subdivision 1 of section 107 of the racing, pari-mutuel
20 wagering and breeding law, as added by section 1 of part A of chapter 60
21 of the laws of 2012, is amended as follows:

22 1. No person shall be appointed to or employed by the commission if,
23 during the period commencing three years prior to appointment or employ-
24 ment, [said] such person held any direct or indirect interest in, or
25 employment by, any corporation, association or person engaged in gaming
26 activity within the state. Prior to appointment or employment, each
27 member, officer or employee of the commission shall swear or affirm that
28 he or she possesses no interest in any corporation or association hold-
29 ing a franchise, license, registration, certificate or permit issued by
30 the commission. Thereafter, no member or officer of the commission shall
31 hold any direct interest in or be employed by any applicant for or by
32 any corporation, association or person holding a license, registration,
33 franchise, certificate or permit issued by the commission for a period
34 of four years commencing on the date his or her membership with the
35 commission terminates. Further, no employee of the commission may
36 acquire any direct or indirect interest in, or accept employment with,
37 any applicant for or any person holding a license, registration, fran-
38 chise, certificate or permit issued by the commission for a period of
39 two years commencing at the termination of employment with the commis-
40 sion. The commission may, by resolution adopted at a properly noticed
41 public meeting, waive for good cause any of its pre-employment
42 restrictions for a prospective employee.

43 § 2. This act shall take effect immediately.

44

PART CC

45 Section 1. Subdivision 2 of section 254 of the racing, pari-mutuel
46 wagering and breeding law is amended by adding a new paragraph h to read
47 as follows:

48 h. An amount as shall be determined by the fund to support and promote
49 the ongoing care of retired horses, provided, however, that the fund
50 shall not be required to make any allocation for such purposes.

- 1 1181. Imposition of tax.
 2 1182. Imposition of compensating use tax.
 3 1183. Vapor products dealer registration and renewal.
 4 1184. Administrative provisions.
 5 1185. Criminal penalties.
 6 1186. Deposit and disposition of revenue.

7 § 1180. Definitions. For the purposes of the taxes imposed by this
 8 article, the following terms shall mean:

9 (a) "Vapor product" means any noncombustible liquid or gel, regardless
 10 of the presence of nicotine therein, that is manufactured in to a
 11 finished product for use in an electronic cigarette, electronic cigar,
 12 electronic cigarillo, electronic pipe, vaping pen, hookah pen or other
 13 similar device. "Vapor product" shall not include any product approved
 14 by the United States food and drug administration as a drug or medical
 15 device, or manufactured and dispensed pursuant to title five-A of arti-
 16 cle thirty-three of the public health law.

17 (b) "Vapor products dealer" means a person licensed by the commission-
 18 er to sell vapor products in this state.

19 § 1181. Imposition of Tax. In addition to any other tax imposed by
 20 this chapter or other law, there is hereby imposed a tax of twenty
 21 percent on receipts from the retail sale of vapor products sold in this
 22 state. The tax imposed on the purchaser and collected by the vapor
 23 products dealer as defined in subdivision (b) of section eleven hundred
 24 eighty of this article, in trust for and on account of the state.

25 ~~§ 1182. Imposition of compensating use tax. (a) Except to the extent~~
 26 ~~that vapor products have already been or will be subject to the tax~~
 27 ~~imposed by section eleven hundred eighty-one of this article, or are~~
 28 ~~otherwise exempt under this article, there is hereby imposed a use tax~~
 29 ~~on every use of vapor products by resident of this state.~~

30 ~~(b) The tax imposed by this section shall be at the rate of twenty~~
 31 ~~percent of (1) the consideration given or contracted to be given for~~
 32 ~~such vapor product purchased at retail; (2) the price at which items of~~
 33 ~~the same kind of vapor products are sold by a manufacturer of such vapor~~
 34 ~~products in the regular course of his or her business.~~

35 (c) The tax due pursuant to this section shall be paid and reported no
 36 later than twenty days after such use on a form prescribed by the
 37 commissioner.

38 § 1183. Vapor products dealer registration and renewal. (a) Every
 39 person who intends to sell vapor products in this state must receive
 40 from the commissioner a certificate of registration prior to engaging in
 41 business. Such person must electronically submit a properly completed
 42 application for a certificate of registration for each location at which
 43 vapor products will be sold in this state, on a form prescribed by the
 44 commissioner, and shall be accompanied by a non-refundable application
 45 fee of three hundred dollars.

46 (b) A vapor products dealer certificate of registration shall be
 47 valid for the calendar year for which it is issued unless earlier
 48 suspended or revoked. Upon the expiration of the term stated on the
 49 certificate of registration, such certificate shall be null and void. A
 50 certificate of registration shall not be assignable or transferable and
 51 shall be destroyed immediately upon the vapor products dealer ceasing to
 52 do business as specified in such certificate or in the event that such
 53 business never commenced.

54 (c) Every vapor product dealer shall publicly display a vapor products
 55 dealer certificate of registration in each place of business in this
 56 state where vapor products are sold at retail. A vapor products dealer

1 who has no regular place of business shall publicly display such valid
2 certificate on each of its carts, stands, trucks or other merchandising
3 devices through which it sells vapor products.

4 (d) (1) The commissioner shall refuse to issue a certificate of regis-
5 tration to any applicant who does not possess a valid certificate of
6 authority under section eleven hundred thirty-four of this chapter. In
7 addition, the commissioner may refuse to issue a certificate of regis-
8 tration, or suspend, cancel or revoke a certificate of registration
9 issued to any person who: (A) has a past-due liability as that term is
10 defined in section one hundred seventy-one-v of this chapter; (B) has
11 had a certificate of registration under this article or any license or
12 registration provided for in this chapter revoked within one year from
13 the date on which such application was filed; (C) has been convicted of
14 a crime provided for in this chapter within one year from the date on
15 which such application was filed; (D) willfully fails to file a report
16 or return required by this article; (E) willfully files, causes to be
17 filed, gives or causes to be given a report, return, certificate or
18 affidavit required by this article which is false; (F) willfully fails
19 to collect or truthfully account for or pay over any tax imposed by this
20 article; or (G) whose place of business is at the same premises as that
21 of a person whose vapor ~~products~~ Dealer registration has been revoked
22 and where such revocation is still in effect, unless the applicant or
23 vapor products dealer provides the commissioner with adequate documenta-
24 tion demonstrating that such applicant or vapor products dealer acquired
25 the premises or business through an arm's length transaction as defined
26 in paragraph (e) of subdivision one of section four hundred eighty-a of
27 this chapter.

28 (2) In addition to the grounds provided in paragraph one of this
29 subdivision, the commissioner shall refuse to issue a certificate of
30 registration and shall cancel or suspend a certificate of registration
31 as directed by an enforcement officer pursuant to article thirteen-F of
32 the public health law. Notwithstanding any provision of law to the
33 contrary, an applicant whose application for a certificate of registra-
34 tion is refused or a vapor products dealer whose registration is
35 cancelled or suspended under this paragraph shall have no right to a
36 hearing under this chapter and shall have no right to commence a court
37 action or proceeding or to any other legal recourse against the commis-
38 sioner with respect to such refusal, suspension or cancellation;
39 provided, however, that nothing herein shall be construed to deny a
40 vapor products dealer a hearing under article thirteen-F of the public
41 health law or to prohibit vapor products dealers from commencing a court
42 action or proceeding against an enforcement officer as defined in
43 section thirteen hundred ninety-nine-aa of the public health law.

44 (e) If a vapor products dealer is suspended, cancelled or revoked and
45 such vapor products dealer sells vapor products through more than one
46 place of business in this state, the vapor products dealer's certificate
47 of registration issued to that place of business, cart, stand, truck or
48 other merchandising device, where such violation occurred, shall be
49 suspended, revoked or cancelled. Provided, however, upon a vapor
50 products dealer's third suspension, cancellation or revocation within a
51 five-year period for any one or more businesses owned or operated by the
52 vapor products dealer, such suspension, cancellation, or revocation of
53 the vapor products dealer's certificate of registration shall apply to
54 all places of business where he or she sells vapor products in this
55 state.

products



1 (f) Every holder of a certificate of registration must notify the
2 commissioner of changes to any of the information stated on the certifi-
3 cate or changes to any information contained in the application for the
4 certificate of authority. Such notification must be made on or before
5 the last day of the month in which a change occurs and must be made
6 electronically on a form prescribed by the commissioner.

7 (g) Every vapor products dealer who holds a certificate of registra-
8 tion under this article shall be required to reapply for a certificate
9 of registration for the following calendar year on or before the twenti-
10 eth day of September and such reapplication shall be subject to the same
11 requirements and conditions, including grounds for refusal, as an
12 initial registration under this article, including but not limited to
13 the payment of the three hundred dollar application fee for each retail
14 location.

15 (h) In addition to any other penalty imposed by this chapter, any
16 vapor products dealer who violates the provisions of this section, (1)
17 for a first violation is liable for a civil fine not less than five
18 thousand dollars but not to exceed twenty-five thousand dollars and such
19 certificate of registration may be suspended for a period of not more
20 than six months; and (2) for a second or subsequent violation within
21 three years following a prior violation of this section, is liable for a
22 civil fine not less than ten thousand dollars but not to exceed thirty-
23 five thousand dollars and such certificate of registration may be
24 suspended for a period of up to thirty-six months; or (3) for a third
25 violation within a period of five years, its vapor products certificate
26 or certificates of registration issued to each place of business owned
27 or operated by the vapor products dealer in this state, shall be revoked
28 for a period of up to five years.

29 § 1184. Administrative provisions. (a) Except as otherwise provided
30 for in this article, the taxes imposed by this article shall be adminis-
31 tered and collected in a like manner as and jointly with the taxes
32 imposed by sections eleven hundred five and eleven hundred ten of this
33 chapter. In addition, except as otherwise provided in this article, all
34 of the provisions of article twenty-eight of this chapter (except
35 sections eleven hundred seven, eleven hundred eight, eleven hundred
36 nine, and eleven hundred forty-eight) relating to or applicable to the
37 administration, collection and review of the taxes imposed by such
38 sections eleven hundred five and eleven hundred ten, including, but not
39 limited to, the provisions relating to definitions, returns, exemptions,
40 penalties, tax secrecy, personal liability for the tax, and collection
41 of tax from the customer, shall apply to the taxes imposed by this arti-
42 cle so far as such provisions can be made applicable to the taxes
43 imposed by this article with such limitations as set forth in this arti-
44 cle and such modifications as may be necessary in order to adapt such
45 language to the taxes so imposed. Such provisions shall apply with the
46 same force and effect as if the language of those provisions had been
47 set forth in full in this article except to the extent that any
48 provision is either inconsistent with a provision of this article or is
49 not relevant to the taxes imposed by this article.

50 (b) Notwithstanding the provisions of subdivision (a) of this section,
51 the exemptions provided in paragraph ten of subdivision (a) of section
52 eleven hundred fifteen of this chapter, and the provisions of section
53 eleven hundred sixteen, except those provided in paragraphs one, two,
54 three and six of subdivision (a) of such section, shall not apply to the
55 taxes imposed by this article.

1 its operation to the clause, sentence, paragraph, subdivision, section
2 or part thereof directly involved in the controversy in which such judg-
3 ment shall have been rendered. It is hereby declared to be the intent of
4 the legislature that this act would have been enacted even if such
5 invalid provisions had not been included herein.

6 § 20. This act shall take effect on the one hundred eightieth day
7 after it shall have become a law; provided, however that section seven-
8 teen of this act shall take effect on the first day of a quarterly peri-
9 od described in subdivision (b) of section 1136 of the tax law next
10 commencing at least one hundred eighty days after this act shall become
11 a law, and shall apply to sales and uses of vapor products on or after
12 such date.

13

PART VV

14 Section 1. This act shall be known and may be cited as the "Cannabis
15 Regulation and Taxation Act".

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

18

CHAPTER 7-A OF THE CONSOLIDATED LAWS

19

CANNABIS LAW

20

ARTICLE 1

21

SHORT TITLE; POLICY OF STATE AND PURPOSE OF CHAPTER;

22

DEFINITIONS

23 Section 1. Short title.

24

2. Policy of state and purpose of chapter.

25

3. Definitions.

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

28

29 § 2. Policy of state and purpose of chapter. It is hereby declared as
30 policy of the state of New York that it is necessary to properly regu-
31 late and control the cultivation, processing, manufacture, wholesale,
32 and retail production, distribution, transportation, and sale of canna-
33 bis, cannabis ~~products~~ products, medical cannabis, and hemp cannabis
34 within the state of New York, for the purposes of fostering and promot-
35 ing temperance in their consumption, to properly protect the public
36 health, safety, and welfare, and to promote social equality. It is here-
37 by declared that such policy will best be carried out by empowering the
38 state office of cannabis management and its executive director, to
39 determine whether public convenience and advantage will be promoted by
40 the issuance of registrations, licenses and/or permits granting the
41 privilege to produce, distribute, transport, sell, or traffic in canna-
42 bis, medical cannabis, or hemp cannabis, to increase or decrease in the
43 number thereof and the location of premises registered, licensed, or
44 permitted thereby, subject only to the right of judicial review herein-
45 after provided for. It is the purpose of this chapter to carry out that
46 policy in the public interest. The restrictions, regulations, and
47 provisions contained in this chapter are enacted by the legislature for
48 the protection of the health, safety, and welfare of the people of the
49 state.

49

50 § 3. Definitions. Whenever used in this chapter, unless otherwise
expressly stated or unless the context or subject matter requires a



1 different meaning, the following terms shall have the representative
2 meanings hereinafter set forth or indicated:

3 1. "Applicant" means a for-profit entity or not-for-profit corporation
4 and includes: board members, officers, managers, owners, partners, prin-
5 cipal stakeholders and members who submit an application to become a
6 registered organization, licensee or permittee.

7 2. "Bona fide cannabis retailer association" shall mean an association
8 of retailers holding licenses under this chapter, organized under the
9 non-profit or not-for-profit laws of this state.

10 3. "Cannabis" means all parts of the plant of the genus cannabis,
11 whether growing or not; the seeds thereof; the resin extracted from any
12 part of the plant; and every compound, manufacture, salt, derivative,
13 mixture, or preparation of the plant, its seeds or resin.

14 4. "Concentrated cannabis" means: (a) the separated resin, whether
15 crude or purified, obtained from a plant of the genus cannabis; or (b) a
16 material, preparation, mixture, compound or other substance which
17 contains more than three percent by weight of delta-9 tetrahydrocannabi-
18 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
19 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
20 system.

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

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

31 7. "Cannabis product" or "adult-use cannabis" means cannabis, concen-
32 trated cannabis, and cannabis-infused products for use by a cannabis
33 consumer.

34 8. "Adult-use cannabis retail dispenser" means a person licensed by
35 the executive director to purchase cannabis, concentrated cannabis, and
36 cannabis-infused products from cannabis processors and cannabis distrib-
37 utors, and sell cannabis, concentrated cannabis and cannabis-infused
38 products in a retail outlet.

39 9. "Certified medical use" means the acquisition, possession, use, or
40 transportation of medical cannabis by a certified patient, or the acqui-
41 sition, possession, delivery, transportation or administration of
42 medical cannabis by a designated caregiver or designated caregiver
43 facility, for use as part of the treatment of the patient's serious
44 condition, as authorized in a certification under this chapter including
45 enabling the patient to tolerate treatment for the serious condition.

46 10. "Caring for" means treating a patient, in the course of which the
47 practitioner has completed a full assessment of the patient's medical
48 history and current medical condition.

49 11. "Certified patient" means a patient who is a resident of New York
50 state or receiving care and treatment in New York state as determined by
51 the executive director in regulation, and is certified under section
52 thirty of this chapter.

53 12. "Certification" means a certification, made under this chapter.

54 13. "Cultivation" shall include, ~~the planting, growing, cloning,~~
55 growing, cloning, harvesting, drying, curing, grading and trimming of
56 cannabis, *or such other cultivation related processes as determined
by the executive director in regulation.*

- 1 cannabis excludes industrial hemp used or intended exclusively for an
 2 industrial purpose and those food and/or food ingredients that are
 3 generally recognized as safe, as governed by the Agriculture and Markets
 4 Law, and shall not be regulated as "hemp" or "hemp cannabis" within the
 5 meaning of this section.
- 6 23. "Cannabinoid grower" means a person licensed by the office, and in
 7 compliance with article twenty-nine of the agriculture and markets law,
 8 to acquire, possess, cultivate, and sell hemp cannabis for its cannabi-
 9 noid content.
- 10 24. "Cannabinoid extractor" means a person licensed by the office to
 11 acquire, possess, extract and manufacture hemp cannabis from licensed
 12 cannabinoid growers for the manufacture and sale of hemp cannabis
 13 products marketed for cannabinoid content and used or intended for human
 14 or animal consumption or use.
- 15 25. "Individual dose" means a single measure of raw cannabis, medical
 16 cannabis or non-infused concentrate or medical concentrate.
- 17 26. "Labor peace agreement" means an agreement between an entity and a
 18 labor organization that, at a minimum, protects the state's proprietary
 19 interests by prohibiting labor organizations and members from engaging
 20 in picketing, work stoppages, boycotts, and any other economic interfer-
 21 ence with the registered organization or licensee's business.
- 22 27. "License" means a license issued pursuant to this chapter.
- 23 28. "Medical cannabis" means cannabis as defined in subdivision three
 24 of this section, intended for a certified medical use, as determined by
 25 the executive director in consultation with the commissioner of health.
- 26 30. "Office" or "office of cannabis management" means the New York
 27 state office of cannabis management.
- 28 31. "Permit" means a permit issued pursuant to this chapter.
- 29 32. "Permittee" means any person to whom a permit has been issued
 30 pursuant to this chapter.
- 31 33. "Person" means individual, institution, corporation, government or
 32 governmental subdivision or agency, business trust, estate, trust, part-
 33 nership or association, or any other legal entity.
- 34 34. "Practitioner" means a practitioner who: (i) is authorized to
 35 prescribe controlled substances within the state, (ii) by training or
 36 experience is qualified to treat a serious condition as defined in
 37 subdivision forty-four of this section; and (iii) completes, at a mini-
 38 mum, a two-hour course as determined by the executive director in regu-
 39 lation; provided however, the executive director may revoke a practi-
 40 tioner's ability to certify patients for cause.
- 41 35. "Processing" includes, ~~but is not limited to,~~ blending, extract-
 42 ing, infusing, packaging, labeling, branding and otherwise making or
 43 preparing cannabis products. Processing shall not include the culti-
 44 vation of cannabis. *↗ "or such other related processes as determined by the*
- 45 36. "Public place" means a public place as defined in regulation by
 46 the executive director. *executive director in regulation."*
- 47 37. "Registered organization" means an organization registered under
 48 article three of this chapter.
- 49 38. "Registry application" means an application properly completed and
 50 filed with the office of cannabis management by a certified patient
 51 under article three of this chapter.
- 52 39. "Registry identification card" means a document that identifies a
 53 certified patient or designated caregiver, as provided under section
 54 thirty-two of this chapter.
- 55 40. "Retail sale" or "sale at retail" means a sale to a consumer or to
 56 any person for any purpose other than for resale.

1 11. To delegate the powers provided in this section to such other
2 officers or employees or other state agencies as may be deemed appropri-
3 ate by the executive director.

4 12. To appoint such advisory groups and committees as the executive
5 director deems necessary to provide assistance to the office to carry
6 out the purposes and objectives of this chapter.

7 13. To exercise the powers and perform the duties in relation to the
8 administration of the office as are necessary but not specifically vest-
9 ed by this chapter, including but not limited to budgetary and fiscal
10 matters.

11 14. To develop and establish minimum criteria for certifying employees
12 to work in the cannabis industry, including the establishment of a
13 cannabis workers certification program.

14 15. To enter into contracts, memoranda of understanding, and agree-
15 ments as deemed appropriate by the executive director to effectuate the
16 policy and purpose of this chapter.

17 16. To issue and administer low interest, or zero-interest loans to
18 qualified social equity applicants provided the office has sufficient
19 funds available for such purposes.

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

30 18. To issue regulations, declaratory rulings, guidance and industry
31 advisories.

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

36 2. The office shall have the power to promulgate any and all necessary
37 rules and regulations governing the production, processing, transporta-
38 tion, distribution, and sale of medical cannabis, recreational cannabis,
39 and hemp cannabis, including but not limited to the registration of
40 organizations authorized to traffic in medical cannabis, the licensing
41 and/or permitting of adult-use cannabis cultivators, processors, cooper-
42 atives, distributors, and retail dispensaries, and the licensing of
43 cannabinoid growers and extractors, including, but not limited to:

44 (a) prescribing forms and establishing application, reinstatement, and
45 renewal fees;

46 (b) the qualifications and selection criteria for registration,
47 licensing, or permitting;

48 (c) the books and records to be created and maintained by registered
49 organizations, licensees, and permittees, including the reports to be
50 made thereon to the office, and inspection of any and all books and
51 records maintained by any registered organization, licensee, or permittee
52 and on the premise of any registered organization, licensee, or permit-
53 tee;

54 (d) methods of producing, processing, and packaging cannabis, medical
55 cannabis, cannabis-infused products, ~~and~~ concentrated cannabis, condi-
56 tions of sanitation, and standards of ingredients, quality, and identity

"And Hemp Cannabis"

1 of cannabis products cultivated, processed, packaged, or sold by regis-
2 tered organizations and licensees;

3 (e) security requirements for adult-use cannabis retail dispensaries
4 and premises where cannabis products, ~~including~~ medical cannabis, are
5 cultivated, produced, processed, or stored, and safety protocols for
6 registered organizations, licensees and their employees; and

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

10 3. The office shall promulgate rules and regulations that are calcu-
11 lated to:

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

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

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

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

20 (e) prevent violence and the use of firearms in the cultivation and
21 distribution of cannabis;

22 (f) prevent drugged driving and the exacerbation of other adverse
23 public health consequences associated with the use of cannabis;

24 (g) prevent the growing of cannabis on public lands and the attendant
25 public safety and environmental dangers posed by cannabis production on
26 public lands; and

27 (h) prevent the possession and use of cannabis on federal property.

28 4. The office, in consultation with the department of agriculture and
29 markets and the department of environmental conservation, shall promul-
30 gate necessary rules and regulations governing the safe production of
31 cannabis, including environmental and energy standards and restrictions
32 on the use of pesticides.

33 § 13. State cannabis advisory board. 1. The executive director shall
34 have the authority to establish within the office a state cannabis advi-
35 sory board, which may advise the office on cannabis cultivation, proc-
36 essing, distribution, transport, testing and sale and consider all
37 matters submitted to it by the executive director.

38 2. The executive director of the office shall serve as the chairperson
39 of the board. The vice chairperson shall be elected from among the
40 members of the board by the members of such board, and shall represent
41 the board in the absence of the chairperson at all official board func-
42 tions.

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

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

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

54 1. The office shall charge each registered organization, licensee and
55 permittee a registration, licensure or permit fee, and renewal fee, as

"And hemp
cannabis,"



1 age of cannabis or particular active ingredient, and appropriate dosage.
2 The practitioner may state in the certification any recommendation or
3 limitation the practitioner makes, in his or her professional opinion,
4 concerning the appropriate form or forms of medical cannabis and dosage.

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

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

14 6. No practitioner shall issue a certification under this section for
15 himself or herself.

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

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

36 § 31. Lawful medical use. ~~■~~ The possession, acquisition, use, deliv-
37 ery, transfer, transportation, or administration of medical cannabis by
38 a certified patient, designated caregiver or designated caregiver facil-
39 ity, for certified medical use, shall be lawful under this article
40 provided that:

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

47 (b) the cannabis that may be possessed by designated caregivers does
48 not exceed the quantities referred to in paragraph (a) of this subdivi-
49 sion for each certified patient for whom the caregiver possesses a valid
50 registry identification card, up to five certified patients;

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

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



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

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

9 ~~Notwithstanding subdivision one of this section,~~

10 ~~(a) possession of medical cannabis shall not be lawful under this~~
11 ~~article if it is smoked or grown in a public place, regardless of the~~
12 ~~form of medical cannabis stated in the patient's certification.~~

13 ~~(b) a person possessing medical cannabis under this chapter shall~~
14 ~~possess it on her registry identification card at all times when in~~
15 ~~immediate possession of medical cannabis.~~

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

26 2. To obtain, amend or renew a registry identification card, a certi-
27 fied patient or designated caregiver shall file a registry application
28 with the office, unless otherwise exempted by the executive director in
29 regulation. The registry application or renewal application shall
30 include:

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

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

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

35 (iii) the date of the certification;

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

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

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

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

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

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

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

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

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

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

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

- 1 (iv) the applicant possesses or has the right to use sufficient land,
2 buildings and equipment to properly carry on the activity described in
3 the application;
- 4 (v) it is in the public interest that such registration be granted,
5 including but not limited to:
- 6 (A) whether the number of registered organizations in an area will be
7 adequate or excessive to reasonably serve the area;
- 8 (B) whether the registered organization is a minority and/or woman
9 owned business enterprise or a service-disabled veteran-owned business;
- 10 (C) whether the registered organization provides education and
11 outreach to practitioners;
- 12 (D) whether the registered organization promotes the research and
13 development of medical cannabis and patient outreach; and
- 14 (E) the affordability medical cannabis products offered by the regis-
15 tered organization;
- 16 (vi) the applicant and its managing officers are of good moral charac-
17 ter;
- 18 (vii) the applicant has entered into a labor peace agreement with a
19 bona fide labor organization that is actively engaged in representing or
20 attempting to represent the applicant's employees; and
- 21 (viii) the applicant satisfies any other conditions as determined by
22 the executive director.
- 23 (b) If the executive director is not satisfied that the applicant
24 should be issued a registration, he or she shall notify the applicant in
25 writing of those factors upon which the denial is based. Within thirty
26 days of the receipt of such notification, the applicant may submit a
27 written request to the executive director to appeal the decision.
- 28 (c) The fee for a registration under this section shall be an amount
29 determined by the office in regulations; provided, however, if the
30 registration is issued for a period greater than two years the fee shall
31 be increased, pro rata, for each additional month of validity.
- 32 (d) Registrations issued under this section shall be effective only
33 for the registered organization and shall specify:
- 34 (i) the name and address of the registered organization;
- 35 (ii) which activities of a registered organization are permitted by
36 the registration;
- 37 (iii) the land, buildings and facilities that may be used for the
38 permitted activities of the registered organization; and
- 39 (iv) such other information as the executive director shall reasonably
40 provide to assure compliance with this article.
- 41 (e) Upon application of a registered organization, a registration may
42 be amended to allow the registered organization to relocate within the
43 state or to add or delete permitted registered organization activities
44 or facilities. The fee for such amendment shall be two hundred fifty
45 dollars.
- 46 4. A registration issued under this section shall be valid for two
47 years from the date of issue, except that in order to facilitate the
48 renewals of such registrations, the executive director may upon the
49 initial application for a registration, issue some registrations which
50 may remain valid for a period of time greater than two years but not
51 exceeding an additional eleven months.
- 52 5. (a) An application for the renewal of any registration issued
53 under this section shall be filed with the office not more than six
54 months nor less than four months prior to the expiration thereof. A
55 late-filed application for the renewal of a registration may, in the

*And the maintenance of such a labor
peace agreement shall
be an ongoing
material condition
of registration.*

1 demanded for medical cannabis not in accordance with the price approved
2 by the executive director, is prohibited.

3 2. The executive director is hereby authorized to set the per dose
4 price of each form of medical cannabis sold by any registered organiza-
5 tion. In reviewing the per dose price of each form of medical cannabis,
6 the executive director may consider the fixed and variable costs of
7 producing the form of cannabis and any other factor the executive direc-
8 tor, in his or her discretion, deems relevant in reviewing the per dose
9 price of each form of medical cannabis.

10 § 47. Severability. If any clause, sentence, paragraph, section or
11 part of this article shall be adjudged by any court of competent juris-
12 diction to be invalid, the judgment shall not affect, impair, or invali-
13 date the remainder thereof, but shall be confined in its operation to
14 the clause, sentence, paragraph, section or part thereof directly
15 involved in the controversy in which the judgment shall have been
16 rendered.

17 ARTICLE 4
18 ADULT-USE CANNABIS

19 Section 60. Licenses issued.

20 61. License application.

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

22 63. Fees.

23 64. Selection criteria.

24 65. Limitations of licensure; duration.

25 66. License renewal.

26 67. Amendments; changes in ownership and organizational struc-
27 ture.

28 68. Adult-use cultivator license.

29 69. Adult-use processor license.

30 70. Adult-use cooperative license.

31 71. Adult-use distributor license.

32 72. Adult-use retail dispensary license.

33 73. Notification to municipalities of adult-use retail dispen-
34 sary.

35 74. On-site consumption license; provisions governing on-site
36 consumption licenses.

37 75. Record keeping and tracking.

38 76. Inspections and ongoing requirements.

39 77. Adult-use cultivators, processors or distributors not to be
40 interested in retail dispensaries.

41 78. Packaging and labeling of adult-use cannabis products.

42 79. Laboratory testing.

43 80. Provisions governing the cultivation and processing of
44 adult-use cannabis.

45 81. Provisions governing the distribution of adult-use cannabis.

46 82. Provisions governing adult-use cannabis retail dispensaries.

47 83. Adult-use cannabis advertising.

48 84. Minority, women-owned businesses and disadvantaged farmers;
49 incubator program.

50 85. ~~Corrective~~ → "Regulations."
51 ~~Regulations.~~

52 § 60. Licenses issued. The following kinds of licenses shall be
53 issued by the executive director for the cultivation, processing,
54 distribution and sale of cannabis to cannabis consumers:

1 (v) the existing noise level at the location and any increase in noise
 2 level that would be generated by the proposed premises;
 3 (vi) the history of violations under the alcoholic beverage control
 4 law or the cannabis law at the location, as well as any pattern of
 5 violations under the alcoholic beverage control law or the cannabis law,
 6 and reported criminal activity at the proposed premises;
 7 (vii) the effect on the production, price and availability of cannabis
 8 and cannabis products; and
 9 (viii) any other factors specified by law or regulation that are rele-
 10 vant to determine that granting a license would promote public conven-
 11 ience and advantage and the public interest of the community;
 12 (f) the applicant and its managing officers are of good moral charac-
 13 ter and do not have an ownership or controlling interest in more
 14 licenses or permits than allowed by this chapter;
 15 (g) the applicant has entered into a labor peace agreement with a
 16 bona-fide labor organization that is actively engaged in representing or
 17 attempting to represent the applicant's employees. In evaluating appli-
 18 cations from entities with twenty-five or more employees, the office
 19 shall give priority to applicants that are a party to a collective
 20 bargaining agreement with a bona-fide labor organization in New York or
 21 in another state, ~~and~~ uses union labor to construct its licensed facili-
 22 ty;
 23 (h) the applicant will contribute to communities ^{the workforce} and people dispropor-
 24 tionately harmed by cannabis law enforcement;
 25 (i) if the application is for an adult-use cultivator license, the
 26 environmental impact of the facility to be licensed; and
 27 (j) the applicant satisfies any other conditions as determined by the
 28 executive director.
 29 2. If the executive director is not satisfied that the applicant
 30 should be issued a license, the executive director shall notify the
 31 applicant in writing of the specific reason or reasons for denial.
 32 3. The executive director shall have authority and sole discretion to
 33 determine the number of licenses issued pursuant to this article.
 34 § 65. Limitations of licensure; duration. 1. No license of any kind
 35 may be issued to a person under the age of twenty-one years, nor shall
 36 any licensee employ anyone under the age of twenty-one years.
 37 2. No person shall sell, deliver, or give away or cause or permit or
 38 procure to be sold, delivered or given away any cannabis to any person,
 39 actually or apparently, under the age of twenty-one years, any visibly
 40 intoxicated person, or any habitually intoxicated person known to be
 41 such by the person authorized to manufacture, traffic, or sell any
 42 cannabis.
 43 3. The office shall have the authority to limit, by canopy, plant
 44 count, square footage or other means, the amount of cannabis allowed to
 45 be grown, processed, distributed or sold by a licensee.
 46 4. All licenses under this article shall expire two years after the
 47 date of issue.
 48 § 66. License renewal. 1. Each license, issued pursuant to this arti-
 49 cle, may be renewed upon application therefore by the licensee and the
 50 payment of the fee for such license as prescribed by this article. In
 51 the case of applications for renewals, the office may dispense with the
 52 requirements of such statements as it deems unnecessary in view of those
 53 contained in the application made for the original license, but in any
 54 event the submission of photographs of the licensed premises shall be
 55 dispensed with, provided the applicant for such renewal shall file a
 56 statement with the office to the effect that there has been no alter-

*And the main-
 tenance of such
 a labor peace agr-
 eement shall be an
 ongoing material
 condition of licensure*

1 ation of such premises since the original license was issued. The office
2 may make such rules as it deems necessary, not inconsistent with this
3 chapter, regarding applications for renewals of licenses and permits and
4 the time for making the same.

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

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

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

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

- 18 1. Licenses issued pursuant to this article shall specify:
 - 19 (a) the name and address of the licensee;
 - 20 (b) the activities permitted by the license;
 - 21 (c) the land, buildings and facilities that may be used for the
 - 22 licensed activities of the licensee;
 - 23 (d) a unique license number issued by the office to the licensee; and
 - 24 (e) such other information as the executive director shall deem neces-
25 sary to assure compliance with this chapter.

26 2. Upon application of a licensee to the office, a license may be
27 amended to allow the licensee to relocate within the state, to add or
28 delete licensed activities or facilities, or to amend the ownership or
29 organizational structure of the entity that is the licensee. The fee for
30 such amendment shall be two hundred fifty dollars.

31 3. A license shall become void by a change in ownership, substantial
32 corporate change or location without prior written approval of the exec-
33 utive director. The executive director may promulgate regulations allow-
34 ing for certain types of changes in ownership without the need for prior
35 written approval.

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

38 (a) for a corporation, a change of eighty percent or more of the offi-
39 cers and/or directors, or a transfer of eighty percent or more of stock
40 of such corporation, or an existing stockholder obtaining eighty percent
41 or more of the stock of such corporation; or

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

47 § 68. Adult-use cultivator license. 1. An adult-use cultivator's
48 license shall authorize the acquisition, possession, cultivation and
49 sale of cannabis from the licensed premises of the adult-use cultivator
50 by such licensee to duly licensed processors in this state. The execu-
51 tive director may establish regulations allowing licensed adult-use
52 cultivators to perform certain types of minimal processing without the
53 need for an adult-use processor license.

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

*5. Each Appli-
cant must
maintain a
labor peace
Agreement
with a bona
-fide labor
organization
that is active
by engaged in
representing
or attempting
to represent
the applicant's
employees and
maintenance of
such a labor
peace agreement
shall be an on-
going material
condition of
licensure.*

1 of lottery tickets, when duly authorized and lawfully conducted thereon,
2 shall not constitute gambling within the meaning of this subdivision.

3 11. If an employee of a cannabis retail licensee suspects that a
4 cannabis consumer may be abusing cannabis, such an employee shall ~~not~~
5 ~~not~~ encourage such cannabis consumer to seek the help of a regis-
6 tered practitioner and become a certified patient. Cannabis retail
7 licensees shall develop standard operating procedures and written mate-
8 rials for employees to utilize when consulting consumers for purposes of
9 this subdivision.

10 12. The executive director is authorized to promulgate regulations
11 governing licensed adult-use dispensing facilities, including but not
12 limited to, the hours of operation, size and location of the licensed
13 facility, potency and types of products offered and establishing a mini-
14 mum margin for which a retail dispensary must markup a cannabis
15 product(s) before selling to a cannabis consumer. Any adult-use cannabis
16 product sold by a retail dispensary for less than the minimum markup
17 allowed in regulation, shall be unlawful.

18 § 83. Adult-use cannabis advertising. 1. The office is hereby author-
19 ized to promulgate rules and regulations governing the advertising of
20 licensed adult-use cannabis cultivators, processors, cooperatives,
21 distributors, retailers, and any cannabis ~~retail~~ products or services.

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

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

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

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

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

- 42 (a) all advertisements and marketing accurately and legibly identify
43 the licensee responsible for its content; and
- 44 (b) any broadcast, cable, radio, print and digital communications
45 advertisements only be placed where the audience is reasonably expected
46 to be twenty-one years of age or older, as determined by reliable,
47 up-to-date audience composition data.

48 § 84. Minority, women-owned businesses and disadvantaged farmers;
49 incubator program. 1. The office shall implement a social and economic
50 equity plan and actively promote racial, ethnic, and gender diversity
51 when issuing licenses for adult-use cannabis related activities, includ-
52 ing by prioritizing consideration of applications by applicants who
53 qualify as a minority and women-owned business or disadvantaged farmers.
54 Such qualifications shall be determined by the office in regulation.

1 (i) at least fifty-one percent owned by one or more United States
 2 citizens or permanent resident aliens who are women;
 3 (ii) an enterprise in which the ownership interest of such women is
 4 real, substantial and continuing;
 5 (iii) an enterprise in which such women ownership has and exercises
 6 the authority to control independently the day-to-day business decisions
 7 of the enterprise;
 8 (iv) an enterprise authorized to do business in this state and inde-
 9 pendently owned and operated; and
 10 (v) an enterprise that is a small business.
 11 (d) a firm owned by a minority group member who is also a woman may be
 12 defined as a minority-owned business, a women-owned business, or both.
 13 (e) "disadvantaged farmer" shall mean a New York state resident or
 14 business enterprise, including a sole proprietorship, partnership,
 15 limited liability company or corporation, that has reported at least
 16 two-thirds of its federal gross income as income from farming, in at
 17 least one of the past five preceding tax years, and who:
 18 (i) farms in a county that has greater than ten percent rate of pover-
 19 ty according to the latest U.S. Census Bureau's American Communities
 20 Survey;
 21 (ii) has been disproportionately impacted by low commodity prices or
 22 faces the loss of farmland through development or suburban sprawl; and
 23 (iii) meets any other qualifications as defined in regulation by the
 24 office.
 25 6. The office shall actively promote applicants that foster racial,
 26 ethnic, and gender diversity in their workforce.
 27 7. Licenses issued to minority and women-owned businesses or under the
 28 social and economic equity plan shall not be transferable except to
 29 qualified minority and women-owned businesses or social and economic
 30 equity applicants and only upon prior written approval of the executive
 31 director.
 32 8. The office shall collect demographic data on owners and employees
 33 in the adult-use cannabis industry and shall annually publish such data.
 34 ~~§ 45. Collective bargaining. 1. The executive director shall require~~
 35 ~~all licenses under this article with more than twenty-five employees,~~
 36 ~~including registered organizations authorized pursuant to section forty~~
 37 ~~of this chapter to cultivate, process, distribute and sell adult-use~~
 38 ~~cannabis products to enter into a bona-fide collective bargaining~~
 39 ~~agreement with a bona-fide labor organization.~~
 40 ~~The maintenance of such a collective bargaining agreement shall be~~
 41 ~~a competitive material condition of the entity's license.~~
 42 "45." § 46. Regulations. The executive director shall make regulations to
 43 implement this article.

44 ARTICLE 5
 45 HEMP CANNABIS

- 46 Section 90. Cannabinoid related hemp ^{"cannabis"}licensing.
 47 91. Cannabinoid grower licenses.
 48 92. Cannabinoid extractor license.
 49 93. Cannabinoid license applications.
 50 94. Information to be requested in applications for licenses.
 51 95. Fees.
 52 96. Selection criteria.
 53 97. Limitations of licensure; duration.
 54 98. License renewal.

- 1 99. Form of license.
- 2 100. Amendments to license and duty to update information
- 3 submitted for licensing.
- 4 101. Record keeping and tracking.
- 5 102. Inspections and ongoing requirements.
- 6 103. Packaging and labeling of hemp cannabis.
- 7 104. Provisions governing the growing and extracting of hemp
- 8 cannabis.
- 9 105. Laboratory testing.
- 10 106. Advertising.
- 11 107. Research.
- 12 108. Regulations.

13 § 90. Cannabinoid related hemp ^{"Cannabis"} licensing. 1. Persons growing, proc-
 14 essing, extracting, and/or manufacturing hemp cannabis or producing hemp
 15 cannabis products distributed, sold or marketed for cannabinoid content
 16 and used or intended for human or animal consumption or use, shall be
 17 required to obtain the following license or licenses from the office,
 18 depending upon the operation:

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

21 2. Notwithstanding subsection one of this section, those persons grow-
 22 ing, processing or manufacturing food or food ingredients from hemp,
 23 which food or food ingredients are generally recognized as safe, shall
 24 be subject to regulation and/or licensing under the agriculture and
 25 markets law.

26 § 91. Cannabinoid grower licenses. 1. A cannabinoid grower's license
 27 authorizes the acquisition, possession, cultivation and sale of hemp
 28 cannabis grown or used for its cannabinoid content on the licensed prem-
 29 ises of the grower.

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

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

40 4. A person licensed under article twenty-nine of the agriculture and
 41 markets law as ^{"an industrial"} hemp grower may apply for a cannabinoid grower's
 42 license provided that it can demonstrate to the office that its culti-
 43 vation of hemp meets all the requirements for hemp ^{"Cannabis"} cultivated under a
 44 cannabinoid grower's license.

45 § 92. Cannabinoid extractor license. 1. A cannabinoid extractor
 46 license authorizes the licensee's acquisition, possession, extraction
 47 and manufacture of hemp from a licensed cannabinoid grower for the proc-
 48 essing of hemp ^{"Cannabis"} or the production of hemp ^{"Cannabis"} products marketed, distributed
 49 or sold for cannabinoid content and used or intended for human or animal
 50 consumption or use.

51 2. No cannabinoid extractor licensee shall engage in any other busi-
 52 ness on the licensed premises; except that nothing contained in this
 53 chapter shall prevent a cannabinoid extractor licensee from also being
 54 licensed as a cannabinoid grower on the same premises.

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

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

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

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

18 5. The executive director is authorized to promulgate regulations, ~~which~~
19 ~~conform with the provisions of the department of health,~~ requir-
20 ing permitted laboratories to perform certain tests and services.

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

28 1. Industrial cannabis permit - to purchase cannabis for use in the
29 manufacture and sale of any of the following, when such cannabis is not
30 otherwise suitable for consumption purposes, namely: (a) apparel, ener-
31 gy, paper, and tools; (b) scientific, chemical, mechanical and indus-
32 trial products; or (c) any other industrial use as determined by the
33 executive director in regulation.

34 2. Nursery permit - to produce clones, immature plants, seeds, and
35 other agricultural products used specifically for the planting, propa-
36 gation, and cultivation of cannabis, and to sell such to licensed
37 adult-use cultivators, registered organizations, and certified patients
38 or their designated caregivers.

39 3. Solicitor's permit - to offer for sale or to solicit orders for the
40 sale of any cannabis products, medical cannabis and/or hemp cannabis, as
41 a representative of a registered organization or licensee under this
42 chapter.

43 4. Broker's permit - to act as a broker in the purchase and sale of
44 cannabis products, medical cannabis and/or hemp cannabis for a fee or
45 commission, for or on behalf of a person authorized to cultivate, proc-
46 ess, distribute or dispense cannabis products, medical cannabis or hemp
47 cannabis within the state.

48 5. Trucking permit - to allow for the trucking or transportation of
49 cannabis products, medical cannabis or hemp cannabis by a person other
50 than a registered organization or licensee under this chapter.

51 6. Warehouse permit - to allow for the storage of cannabis, cannabis
52 products, medical cannabis or hemp cannabis at a location not otherwise
53 registered or licensed by the office.

54 7. Delivery permit - to authorize licensed adult-use cannabis dispen-
55 saries to deliver adult-use cannabis and cannabis products directly to
56 cannabis consumers.

1 8. Cannabinoid permit - to sell cannabinoid products derived from hemp
 2 cannabis for off-premises consumption.

3 9. Temporary retail cannabis permit - to authorize the retail sale of
 4 adult-use cannabis to cannabis consumers, for a limited purpose or dura-
 5 tion.

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

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

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

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

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

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

51 § 133. Executive director to be necessary party to certain
 52 proceedings. The executive director shall be made a party to all
 53 actions and proceedings affecting in any manner the ability of a regis-
 54 tered organization or licensee to operate within a municipality, or the
 55 result of any vote thereupon; to all actions and proceedings relative to
 56 issuance or revocation of registrations, licenses or permits; to all

1 § 6. Title 5-A of article 33 of the public health law is REPEALED.

2 § 7. Section 3382 of the public health law, as added by chapter 878 of
3 the laws of 1972, is amended to read as follows:

4 § 3382. Growing of the plant known as Cannabis by unlicensed persons.
5 A person who, without being licensed so to do under this article or
6 articles three, four or five of the cannabis law, grows the plant of the
7 genus Cannabis or knowingly allows it to grow on his land without
8 destroying the same, shall be guilty of a class A misdemeanor.

9 § 8. Subdivision 1 of section 3397-b of the public health law, as
10 added by chapter 810 of the laws of 1980, is amended to read as follows:

11 1. ["Marijuana"] "Cannabis" means [marijuana] cannabis as defined in
12 [section thirty-three hundred two of this chapter] subdivision three of
13 section three of the cannabis law and shall also include tetrahydrocan-
14 nabinols or a chemical derivative of tetrahydrocannabinol.

15 § 9. Subdivision 8 of section 1399-n of the public health law, as
16 amended by chapter 13 of the laws of 2003, is amended to read as
17 follows:

18 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
19 any other matter or substance which contains tobacco or cannabis.

20 § 10. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
21 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
22 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
23 amended by chapter 664 of the laws of 1985, are amended and a new subdi-
24 vision 21 is added to read as follows:

25 5. "Controlled substance" means any substance listed in schedule I,
26 II, III, IV or V of section thirty-three hundred six of the public
27 health law other than [marihuana] cannabis as defined in subdivision six
28 of this section, but including concentrated cannabis as defined in
29 [paragraph (a) of subdivision four of section thirty-three hundred two
30 of such law] subdivision twenty-one of this section.

31 6. ["Marihuana"] "Cannabis" means ["marihuana" or "concentrated canna-
32 bis" as those terms are defined in section thirty-three hundred two of
33 the public health law] all parts of the plant of the genus cannabis,
34 whether growing or not; the seeds thereof; ~~the resin extracted from any~~
35 part of the plant; and every compound, manufacture, salt, derivative,
36 mixture, or preparation of the plant, ~~its seeds or resin~~. It does not
37 include the mature stalks of the plant, fiber produced from the stalks,
38 oil or cake made from the seeds of the plant, any other compound, manu-
39 facture, salt, derivative, mixture, or preparation of the mature stalks
40 ~~(except the resin extracted therefrom), fiber, oil, or cake, or the~~
41 sterilized seed of the plant which is incapable of germination. It does
42 not include all parts of the plant cannabis sativa L., whether growing
43 or not, having no more than three-tenths of one percent tetrahydrocanna-
44 binol (THC).

45 9. "Hallucinogen" means any controlled substance listed in schedule
46 I(d) (5), [(18), (19), (20), (21) and (22)] (17), (18), (19), (20) and
47 (21).

48 21. "Concentrated cannabis" means: (a) the separated resin, whether
49 crude or purified, obtained from a plant of the genus cannabis; or (b) a
50 material, preparation, mixture, compound or other substance which
51 contains more than three percent by weight of delta-9 tetrahydrocannabi-
52 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
53 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
54 system.

55 § 11. Subdivision 4 of section 220.06 of the penal law is repealed.
56 chapter 537 of the laws of 1998, is amended to read as follows:

1 ~~4. one or more preparations, compounds, mixtures or substances~~
 2 ~~containing concentrated cannabis as defined in [paragraph (a) of subdi-~~
 3 ~~vision four of section thirty-three hundred two of the public health~~
 4 ~~law] subdivision twenty-one of section 220.00 of this article and said~~
 5 ~~preparations, compounds, mixtures or substances are of an aggregate~~
 6 ~~weight of one fourth ounce or more; or~~

7 § 12. Subdivision 10 of section 220.09 of the penal law, ~~as amended by~~ *is repealed.*
 8 ~~chapter 537 of the laws of 1998, is amended to read as follows:~~

9 ~~10. one or more preparations, compounds, mixtures or substances~~
 10 ~~containing concentrated cannabis as defined in [paragraph (a) of subdi-~~
 11 ~~vision four of section thirty-three hundred two of the public health~~
 12 ~~law] subdivision twenty-one of section 220.00 of this article and said~~
 13 ~~preparations, compounds, mixtures or substances are of an aggregate~~
 14 ~~weight of one ounce or more; or~~

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

17 ~~3. concentrated cannabis as defined in [paragraph (a) of subdivision~~
 18 ~~four of section thirty-three hundred two of the public health law]~~
 19 ~~subdivision twenty-one of section 220.00 of this article; or~~

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

22 § 220.50 Criminally using drug paraphernalia in the second degree.

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

25 1. Diluents, dilutants or adulterants, including but not limited to,
 26 any of the following: quinine hydrochloride, mannitol, mannite, lactose
 27 or dextrose, adapted for the dilution of narcotic drugs or stimulants
 28 under circumstances evincing an intent to use, or under circumstances
 29 evincing knowledge that some person intends to use, the same for
 30 purposes of unlawfully mixing, compounding, or otherwise preparing any
 31 narcotic drug or stimulant, other than cannabis or concentrated
 32 cannabis; or

33 2. Gelatine capsules, glassine envelopes, vials, capsules or any other
 34 material suitable for the packaging of individual quantities of narcotic
 35 drugs or stimulants under circumstances evincing an intent to use, or
 36 under circumstances evincing knowledge that some person intends to use,
 37 the same for the purpose of unlawfully manufacturing, packaging or
 38 dispensing of any narcotic drug or stimulant, other than cannabis or
 39 concentrated cannabis; or

40 3. Scales and balances used or designed for the purpose of weighing or
 41 measuring controlled substances, under circumstances evincing an intent
 42 to use, or under circumstances evincing knowledge that some person
 43 intends to use, the same for purpose of unlawfully manufacturing, pack-
 44 aging or dispensing of any narcotic drug or stimulant, other than canna-
 45 bis or concentrated cannabis.

46 Criminally using drug paraphernalia in the second degree is a class A
 47 misdemeanor.

48 § 15. Section 221.00 of the penal law, as amended by chapter 90 of the
 49 laws of 2014, is amended to read as follows:

50 § 221.00 [Marihuana] Cannabis; definitions.

51 Unless the context in which they are used clearly otherwise requires,
 52 the terms occurring in this article shall have the same meaning ascribed
 53 to them in article two hundred twenty of this chapter. Any act that is
 54 lawful under [title five-A of article thirty-three of the public health]
 55 articles three, four or five, of the cannabis law is not a violation of
 56 this article.



1 § 15-a. Section 221.00 of the penal law, as added by chapter 360 of
2 the laws of 1977, is amended to read as follows:

3 § 221.00 [Marihuana] Cannabis; definitions.

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

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

9 § 221.05 Unlawful possession of [marihuana] cannabis.

10 A person is guilty of unlawful possession of [marihuana] cannabis when
11 he or she knowingly and unlawfully possesses [marihuana.]:

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

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

15 Unlawful possession of [marihuana] cannabis is a violation punishable
16 only by a fine of not more than [one hundred] fifty dollars. However,
17 where the defendant has previously been convicted of an offense defined
18 in this article or article 220 of this chapter, committed within the
19 three years immediately preceding such violation, it shall be punishable

20 (a) only by a fine of not more than two hundred dollars, if the defend-
21 ant was previously convicted of one such offense committed during such
22 period, and (b) by a fine of not more than two hundred fifty dollars or
23 a term of imprisonment not in excess of fifteen days or both, if the
24 defendant was previously convicted of two such offenses committed during
25 such period] when such possession is by a person less than twenty-one
26 years of age and of an aggregate weight of less than one-half of one
27 ounce or a fine of not more than one hundred dollars when such
28 possession is by a person less than twenty-one years of age and of an
29 aggregate weight more than one-half of one ounce but not more than one
30 ounce. Unlawful possession of marijuana is punishable by a fine of not
31 more than one hundred twenty-five dollars when such possession is in a
32 public place and such cannabis is burning. The term burning in this
33 section shall have the same meaning as the term vaping as defined in
34 subdivision eight of section thirteen hundred ninety-nine-n of the
35 public health law.

36 § 17. Section 221.15 of the penal law, as amended by chapter 265 of
37 the laws of 1979, the opening paragraph as amended by chapter 75 of the
38 laws of 1995, is amended to read as follows:

39 § 221.15 Criminal possession of [marihuana] cannabis in the [fourth]
40 third degree.

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

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

52 § 18. Section 221.20 of the penal law, as amended by chapter 265 of
53 the laws of 1979, the opening paragraph as amended by chapter 75 of the
54 laws of 1995, is amended to read as follows:

55 § 221.20 Criminal possession of [marihuana] cannabis in the [third]
56 second degree.

1 A person is guilty of criminal possession of [marihuana] cannabis in
2 the [third] second degree when he or she knowingly and unlawfully
3 possesses [one or more preparations, compounds, mixtures or substances
4 containing marihuana and the preparations, compounds, mixtures or
5 substances are of] an aggregate weight of more than [eight] two ounces
6 of cannabis or more than ten ^{grams} of concentrated cannabis.

7 Criminal possession of [marihuana] cannabis in the [third] second
8 degree is a class [E felony] A misdemeanor punishable by a fine not more
9 than one hundred twenty-five dollars per ounce possessed in excess of
10 two ounces. However, where the defendant has previously been convicted
11 of an offense defined in this article or article two hundred twenty of
12 this title, committed within the three years immediately preceding such
13 violation, it shall be punishable (a) only by a fine of not more than
14 two hundred dollars per ounce possessed in excess of two ounces, if the
15 defendant was previously convicted of one such offense committed during
16 such period, and (b) by a fine of not more than two hundred fifty
17 dollars per ounce possessed in excess of two ounces or a term of impris-
18 onment not in excess of fifteen days or both, if the defendant was
19 previously convicted of two such offenses committed during such period.
20 The provisions of this section shall not apply to certified patients or
21 designated caregivers as lawfully registered under article three of the
22 cannabis law.

23 § 19. Section 221.25 of the penal law, as amended by chapter 265 of
24 the laws of 1979, the opening paragraph as amended by chapter 75 of the
25 laws of 1995, is amended to read as follows:

26 § 221.25 Criminal possession of [marihuana] cannabis in the [second]
27 first degree.

28 A person is guilty of criminal possession of [marihuana] cannabis in
29 the [second] first degree when he or she knowingly and unlawfully
30 possesses [one or more preparations, compounds, mixtures or substances
31 containing marihuana and the preparations, compounds, mixtures or
32 substances are of] an aggregate weight of more than [sixteen] sixty-four
33 ounces of cannabis or more than eighty grams of concentrated cannabis.

34 Criminal possession of [marihuana] cannabis in the [second] first
35 degree is a class [D] E felony.

36 § 20. Sections 221.10 and 221.30 of the penal law are REPEALED.

37 § 21. Section 221.35 of the penal law, as amended by chapter 265 of
38 the laws of 1979, the opening paragraph as amended by chapter 75 of the
39 laws of 1995, is amended to read as follows:

40 § 221.35 Criminal sale of [marihuana] cannabis in the fifth degree.

41 A person is guilty of criminal sale of [marihuana] cannabis in the
42 fifth degree when he or she knowingly and unlawfully sells, [without]
43 for consideration], one or more preparations, compounds, mixtures or
44 substances containing marihuana and the preparations, compounds,
45 mixtures or substances are] cannabis or cannabis concentrate of [an
46 aggregate weight of two grams or less; or one cigarette containing mari-
47 huana] any weight.

48 Criminal sale of [marihuana] cannabis in the fifth degree is a [class
49 B misdemeanor] violation punishable by a fine not more than the greater
50 of two-hundred and fifty dollars or two times the value of the sale.

51 § 22. Section 221.40 of the penal law, as added by chapter 360 of the
52 laws of 1977, is amended to read as follows:

53 § 221.40 Criminal sale of [marihuana] cannabis in the fourth degree.

54 A person is guilty of criminal sale of [marihuana] cannabis in the
55 fourth degree when he or she knowingly and unlawfully sells [marihuana
56 except as provided in section 221.35 of this article] cannabis of an

1 Driving while intoxicated or while ability impaired by drugs or while
 2 ability impaired by the combined influence of drugs or of alcohol and
 3 any drug or drugs; aggravated driving while intoxicated; misdemeanor
 4 offenses. (i) A violation of subdivision two, three, or four [or four-a]
 5 of section eleven hundred ninety-two of this article shall be a misde-
 6 meanor and shall be punishable by a fine of not less than five hundred
 7 dollars nor more than one thousand dollars, or by imprisonment in a
 8 penitentiary or county jail for not more than one year, or by both such
 9 fine and imprisonment. A violation of paragraph (a) of subdivision two-a
 10 of section eleven hundred ninety-two of this article shall be a misde-
 11 meanor and shall be punishable by a fine of not less than one thousand
 12 dollars nor more than two thousand five hundred dollars or by imprison-
 13 ment in a penitentiary or county jail for not more than one year, or by
 14 both such fine and imprisonment.

15 § 33. ~~The paragraph heading and subparagraph (1) of~~ paragraph (c) of
 16 subdivision 1 of section 1193 of the vehicle and traffic law, as amended
 17 by chapter 169 of the laws of 2013, ~~is amended to read as follows:~~ *is*

18 ~~felony offenses. (1) A person who operates a vehicle (A) in violation~~ *Amended by adding*
 19 ~~of subdivision four of section eleven hundred ninety-two of this arti-~~ *A new subparagraph*
 20 ~~cle or in violation of subdivision two, two a, three, or four [or~~ *(i-a)*
 21 ~~four a] of section eleven hundred ninety-two of this article after~~
 22 ~~having been convicted of a violation of subdivision two, two a, three,~~
 23 ~~four or four a of such section or of vehicular assault in the second or~~
 24 ~~first degree, as defined, respectively, in sections 120.03 and 120.04~~
 25 ~~and aggravated vehicular assault as defined in section 120.04a of the~~
 26 ~~penal law or of vehicular manslaughter in the second or first degree, as~~ *See inserts*
 27 ~~defined, respectively, in sections 125.12 and 125.13 and aggravated~~ *H And I*
 28 ~~vehicular homicide as defined in section 125.14 of such law within the~~
 29 ~~preceding ten years, or (B) in violation of paragraph (b) of subdivision~~
 30 ~~two-a of section eleven hundred ninety-two of this article shall be~~
 31 ~~guilty of a class E felony, and shall be punished by a fine of not less~~
 32 ~~than one thousand dollars nor more than five thousand dollars or by a~~
 33 ~~period of imprisonment as provided in the penal law, or by both such~~
 34 ~~fine and imprisonment.~~

35 § 34. Subdivision 1 of section 171-a of the tax law, as amended by
 36 section 3 of part MM of chapter 59 of the laws of 2018, is amended to
 37 read as follows:

38 1. All taxes, interest, penalties and fees collected or received by
 39 the commissioner or the commissioner's duly authorized agent under arti-
 40 cles nine (except section one hundred eighty-two-a thereof and except as
 41 otherwise provided in section two hundred five thereof), nine-A,
 42 twelve-A (except as otherwise provided in section two hundred eighty-
 43 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
 44 section three hundred twelve thereof), eighteen, nineteen, twenty
 45 (except as otherwise provided in section four hundred eighty-two there-
 46 of), twenty-B, twenty-C, twenty-one, twenty-two, twenty-four, twenty-
 47 six, twenty-eight (except as otherwise provided in section eleven
 48 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
 49 nine-B, thirty-one (except as otherwise provided in section fourteen
 50 hundred twenty-one thereof), thirty-three and thirty-three-A of this
 51 chapter shall be deposited daily in one account with such responsible
 52 banks, banking houses or trust companies as may be designated by the
 53 comptroller, to the credit of the comptroller. Such an account may be
 54 established in one or more of such depositories. Such deposits shall be
 55 kept separate and apart from all other money in the possession of the
 56 comptroller. The comptroller shall require adequate security from all

1 topical product containing cannabis or concentrated cannabis and other
2 ingredients. Cannabis flower excludes leaves and stem.

3 (c) "Cannabis trim" means all parts of a plant of the genus cannabis
4 other than cannabis flowers that have been harvested, dried, and cured,
5 and prior to any processing whereby the plant material is transformed
6 into a concentrate, including, but not limited to, concentrated canna-
7 bis, or an edible or topical product containing cannabis and other
8 ingredients.

9 (d) "Adult-use cannabis product" means a cannabis product as defined
10 in section three of the cannabis law. For purposes of this article,
11 under no circumstances shall adult-use cannabis product include medical
12 cannabis or hemp cannabis as defined in section three of the cannabis
13 law.

14 (e) "Person" means every individual, partnership, limited liability
15 company, society, association, joint stock company, corporation, estate,
16 receiver, trustee, assignee, referee, and any other person acting in a
17 fiduciary or representative capacity, whether appointed by a court or
18 otherwise, and any combination of the foregoing.

19 (f) "Wholesaler" means any person that sells or transfers adult-use
20 cannabis products to a retail dispensary licensed pursuant to section
21 seventy-two of the cannabis law. Where the cultivator or processor is
22 also the retail dispensary, the retail dispensary shall be the whole-
23 saler for purposes of this article.

24 (g) "Cultivation" has the same meaning as described in subdivision two
25 of section sixty-eight of the cannabis law.

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

28 (i) "Transfer" means to grant, convey, hand over, assign, sell,
29 exchange or barter, in any manner or by any means, with or without
30 consideration.

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

35 (k) "Processor" has the same meaning as described in subdivision two
36 of section sixty-nine of the cannabis law.

37 § 493. Tax on cannabis. (a) There is hereby imposed and shall be paid
38 a tax on the cultivation of cannabis flower and cannabis trim ~~cannabis~~
39 ~~processed to the manufacturer~~ at the rate of one dollar per dry-weight
40 gram of cannabis flower and twenty-five cents per dry-weight gram of
41 cannabis trim. Where the wholesaler is not the cultivator, such tax
42 shall be collected from the cultivator by the wholesaler at the time
43 such flower or trim is transferred to the wholesaler. Where the whole-
44 saler is the cultivator, such tax shall be paid by the wholesaler and
45 shall accrue at the time of sale or transfer to a retail dispensary.
46 Where the cultivator is also the retail dispensary, such tax shall
47 accrue at the time of the sale to the retail customer.

48 (b) In addition to the tax imposed by subdivision (a) of this section,
49 there is hereby imposed a tax on the sale or transfer by a wholesaler to
50 a retail dispensary of adult-use cannabis products, to be paid by such
51 wholesaler. Where the wholesaler is not the retail dispensary, such tax
52 shall be at the rate of twenty percent of the invoice price charged by
53 the wholesaler to a retail dispensary, and shall accrue at the time of
54 such sale. Where the wholesaler is the retail dispensary, such tax shall
55 be at the rate of twenty percent of the price charged to the retail
56 customer and shall accrue at the time of such sale.



1 of a vehicle in the second degree as defined in section 165.06, criminal
 2 possession of stolen property in the fourth degree as defined in subdi-
 3 vision one, two, three, five or six of section 165.45, criminal
 4 possession of stolen property in the third degree as defined in section
 5 165.50 (except where the property consists of one or more firearms,
 6 rifles or shotguns), forgery in the second degree as defined in section
 7 170.10, criminal possession of a forged instrument in the second degree
 8 as defined in section 170.25, unlawfully using slugs in the first degree
 9 as defined in section 170.60, criminal diversion of medical [marihuana]
 10 cannabis in the first degree as defined in section 179.10 or an attempt
 11 to commit any of the aforementioned offenses if such attempt constitutes
 12 a felony offense; or a class B felony offense defined in article two
 13 hundred twenty where a sentence is imposed pursuant to paragraph (a) of
 14 subdivision two of section 70.70 of the penal law; or any class C, class
 15 D or class E controlled substance [or marihuana] cannabis felony offense
 16 as defined in article two hundred twenty or two hundred twenty-one.

17 § 63-a. Subdivision 5 of section 410.91 of the criminal procedure law,
 18 as amended by section 8 of part AAA of chapter 56 of the laws of 2009,
 19 is amended to read as follows:

20 5. For the purposes of this section, a "specified offense" is an
 21 offense defined by any of the following provisions of the penal law:
 22 burglary in the third degree as defined in section 140.20, criminal
 23 mischief in the third degree as defined in section 145.05, criminal
 24 mischief in the second degree as defined in section 145.10, grand larce-
 25 ny in the fourth degree as defined in subdivision one, two, three, four,
 26 five, six, eight, nine or ten of section 155.30, grand larceny in the
 27 third degree as defined in section 155.35 (except where the property
 28 consists of one or more firearms, rifles or shotguns), unauthorized use
 29 of a vehicle in the second degree as defined in section 165.06, criminal
 30 possession of stolen property in the fourth degree as defined in subdi-
 31 vision one, two, three, five or six of section 165.45, criminal
 32 possession of stolen property in the third degree as defined in section
 33 165.50 (except where the property consists of one or more firearms,
 34 rifles or shotguns), forgery in the second degree as defined in section
 35 170.10, criminal possession of a forged instrument in the second degree
 36 as defined in section 170.25, unlawfully using slugs in the first degree
 37 as defined in section 170.60, or an attempt to commit any of the afore-
 38 mentioned offenses if such attempt constitutes a felony offense; or a
 39 class B felony offense defined in article two hundred twenty where a
 40 sentence is imposed pursuant to paragraph (a) of subdivision two of
 41 section 70.70 of the penal law; or any class C, class D or class E
 42 controlled substance or [marihuana] cannabis felony offense as defined
 43 in article two hundred twenty or two hundred twenty-one.

44 § 64. This act shall take effect immediately; provided, however that
 45 sections thirty-seven and thirty-eight of this act shall take effect on
 46 April 1, 2020, and shall apply on and after such date: (a) to the culti-
 47 vation of cannabis flower and cannabis trim transferred by a cultivator
 48 who is not a wholesaler; (b) to the cultivation of cannabis flower and
 49 cannabis trim sold or transferred to a retail dispensary by a cultivator
 50 who is a wholesaler; and (c) to the sale or transfer of adult use canna-
 51 bis products to a retail dispensary; provided, further, that the amend-
 52 ments to article 179 of the penal law made by section fifty-five of this
 53 act shall not affect the repeal of such article and shall be deemed to
 54 be repealed therewith; provided further, that the amendments to section
 55 89-h of the state finance law made by section fifty-eight of this act
 56 shall not affect the repeal of such section and shall be deemed repealed

See insert
 511
 503

1 sixty-six-a of this article, but which is a retail sale of such passen-
2 ger car within the state.

3 (b) Except to the extent that a passenger car rental described in
4 subdivision (a) of this section or in section eleven hundred
5 sixty-six-a of this article, has already been subject to the tax imposed
6 under such subdivision or section, and except as otherwise exempted
7 under this article, there is hereby imposed on every person and there
8 shall be paid a use tax for the use within the state of any passenger
9 car rented by the user that is a purchase at retail of such passenger
10 car, but not including any lease of a passenger car to which subdivision
11 (i) of section eleven hundred eleven of this chapter applies. For
12 purposes of this subdivision, the tax shall be at the rate of five
13 percent of the consideration given or contracted to be given for such
14 property, or for the use of such property, including any charges for
15 shipping or delivery as described in paragraph three of subdivision (b)
16 of section eleven hundred one of this chapter, but excluding any credit
17 for tangible personal property accepted in part payment and intended for
18 resale.

19 § 3. Section 1167 of the tax law, as amended by section 3 of part F of
20 chapter 25 of the laws of 2009, is amended to read as follows:

21 § 1167. Deposit and disposition of revenue. All taxes, interest and
22 penalties collected or received by the commissioner under this article
23 shall be deposited and disposed of pursuant to the provisions of section
24 one hundred seventy-one-a of this chapter, except that after reserving
25 amounts in accordance with such section one hundred seventy-one-a of
26 this chapter, the remainder shall be paid by the comptroller to the
27 credit of the highway and bridge trust fund established by section
28 eighty-nine-b of the state finance law, provided, however[,]; (a) taxes,
29 interest and penalties collected or received pursuant to section eleven
30 hundred sixty-six-a of this article shall be paid to the credit of the
31 metropolitan transportation authority aid trust account of the metropol-
32 itan transportation authority financial assistance fund established by
33 section ninety-two-ff of the state finance law; and (b) taxes, interest
34 and penalties collected or received pursuant to section eleven hundred
35 sixty-six-b of this article shall be paid to the credit of the public
36 transportation systems operating assistance account established by
37 section eighty-eight-a of the state finance law.

38 § 4. This act shall take effect September 1, 2019, and shall apply to
39 rentals of passenger cars commencing on and after such date whether or
40 not under a prior contract; provided, however where such passenger car
41 rentals are billed on a monthly, quarterly or other period basis, the
42 tax imposed by this act shall apply to the rental for such period if
43 more than half of the days included in such period are days subsequent
44 to such effective date.

Insert
New part
XX

45 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
46 sion, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.

54 § 3. This act shall take effect immediately provided, however, that
55 the applicable effective date of Parts A through ~~xxx~~ of this act shall be
56 as specifically set forth in the last section of such Parts. XX

Inserts for S1509 / A2009 Revenue Article VII Bill

Insert A

§ 3. Subparagraph (2) of paragraph (a) of subdivision (3) of section 11-604 of the administrative code of the city of New York is amended by adding a new clause (E) to read as follows:

(E) notwithstanding any other provision of this paragraph, net global intangible low-taxed income shall be included in the receipts fraction as provided in this clause. Receipts constituting net global intangible low-taxed income shall not be included in the numerator of the receipts fraction. Receipts constituting net global intangible low-taxed income shall be included in the denominator of the receipts fraction. For purposes of this clause, the term "net global intangible low-taxed income" means the amount that would have been required to be included in the taxpayer's federal gross income pursuant to subsection (a) of section 951A of the internal revenue code less the amount of the deduction that would have been allowed under clause (i) of section 250(a)(1)(B) of such code if the taxpayer had not made an election under subchapter s of chapter one of the internal revenue code.

Insert B

When providing notice of a tentative determination by causing it to be posted on the department's website, the commissioner also shall e-mail the parties required by law to receive such notice, to inform them that the notice of tentative determination has been posted on the website. Such notice of tentative determination shall not be deemed complete unless such emails have been sent.

Insert C

When providing notice of a final determination by website posting, the commissioner also shall e-mail the parties required by law to receive such notice, to inform them that the notice of final determination has been posted on the website. Such notice of final determination shall not be deemed complete unless such emails have been sent.

Insert D

§ 9. Paragraph (b) of subdivision (8) of section 11-602 of the administrative code of the city of New York is amended by adding a new subparagraph (20) to read as follows:

(20) the amount of any federal deduction that would have been allowed pursuant to section 250(a)(1)(A) of the internal revenue code if the taxpayer had not made an election under subchapter s of chapter one of the internal revenue code.

§ 10. Clause (i) of subparagraph (1) of paragraph (b) of subdivision (3) of section 11-604 of the administrative code of the city of New York is amended to read as follows:

(i) in the case of an issuer or obligor subject to tax under this subchapter, subchapter three-A or subchapter four of this chapter, or subject to tax as a utility corporation under chapter eleven of this title, the issuer's allocation percentage shall be the percentage of the appropriate measure (as defined hereinafter) which is required to be allocated within the city on the report or reports, if any, required of the issuer or obligor under this title for the preceding year. The appropriate measure referred to in the preceding sentence shall be: in the case of an issuer or obligor subject to this subchapter or subchapter three-A, entire capital; in the case of an issuer or obligor subject to subchapter four of this chapter, issued capital stock; in the case of an issuer or obligor subject to chapter eleven of this title as a utility corporation, gross income.

Insert E

Section 490 of the real property tax law, as amended by chapter 87 of the laws of 2001, is amended to read as follows:

§ 490. Exemption from special ad valorem levies and special assessments. Real property exempt from taxation pursuant to subdivision two of section four hundred, subdivision one of section four hundred four, subdivision one of section four hundred six, sections four hundred eight, four hundred ten, four hundred ten-a, four hundred ten-b, four hundred eighteen, four hundred twenty-a, four hundred twenty-b, four hundred twenty-two, four hundred twenty-six, four hundred twenty-seven, four hundred twenty-eight, four hundred thirty, four hundred thirty-two, four hundred thirty-four, four hundred thirty-six, four hundred thirty-eight, four hundred fifty, four hundred fifty-two, four hundred fifty-four, four hundred fifty-six, four hundred sixty-four, four hundred seventy-two, four hundred seventy-four, [and] four hundred eighty-five and subdivision ten of section four hundred eighty-seven of this chapter shall also be exempt from special ad valorem levies and special assessments against real property located outside cities and villages for a special improvement or service or a special district improvement or service and special ad valorem levies and special assessments imposed by a county improvement district or district corporation except (1) those levied to pay for the costs, including interest and incidental and preliminary costs, of the acquisition, installation, construction, reconstruction and enlargement of or additions to the following improvements, including original equipment, furnishings, machinery or apparatus, and the replacements thereof: water supply and distribution systems; sewer systems (either sanitary or surface drainage or both, including purification, treatment or disposal plants or buildings); waterways and drainage improvements; street, highway, road and parkway improvements (including sidewalks, curbs, gutters, drainage, landscaping, grading or improving the right of way) and (2) special assessments payable in installments on an indebtedness including interest contracted prior to July first, nineteen hundred fifty-three, pursuant to section two hundred forty-two of the town law or pursuant to any other comparable provision of law.

§ 3.

Insert F

§ 1182. Imposition of compensating use tax. (a) Except to the extent that vapor products have already been or will be subject to the tax imposed by section eleven hundred eighty-one of this article, or are otherwise exempt under this article, there is hereby imposed a use tax on every use within the state of vapor products: (1) purchased at retail; and (2) manufactured or processed by the user if items of the same kind are sold by him or her in the regular course of his or her business.

(b) For purposes of paragraph one of subdivision (a) of this section, the tax shall be at the rate of twenty percent of the consideration given or contracted to be given for such vapor product purchased at retail. For purposes of paragraph two of subdivision (a) of this section, the tax shall be at the rate of twenty percent of the price at which such items of the same kind of vapor product are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of such vapor product by the person that manufactured or processed such vapor product shall not be deemed a taxable use by him or her.

INSERT G

Insert “§ 27-a. 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 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 cannabis.

INSERT H

(i-a) A violation of subdivision four-a of section eleven hundred ninety-two of this article shall be a class E felony, and shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.”

INSERT I

§33-a. Paragraph (b) of subdivision 1 of section 1194 of the vehicle and traffic law, as amended by chapter 406 of the laws of 1988, is amended to read as follows:

(b) Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath and/or saliva test to be administered by the police officer. If such test or tests indicate[s] that such operator has consumed alcohol or drug or drugs, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision two of this section.

INSERT J

“§ 63-b. The criminal procedure law is amended by adding a new section 440.46-a to read as follows: § 440.46-a motion for resentencing; 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 following 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, whichever 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 agreement. 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, whether by trial or 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 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 subdivision 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 petition 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."

DRAFT LBDC

A BUDGET BILL submitted by the Governor
in accordance with Article VII of the Constitution

AN ACT to amend the tax law, in relation to the imposition of an
excise tax on the sale of opioids (Part __);

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

PART ~~XX~~

Section 1. The tax law is amended by adding a new article 20-D to read
as follows:

ARTICLE 20-D

EXCISE TAX ON SALE OF OPIOIDS

Section 497. Definitions.

498. Imposition of excise tax.

499. Returns to be secret.

§ 497. Definitions. The following terms shall have the following mean-
ings when used in this article.

(a) "Opioid" shall mean an "opiate" as defined by subdivision twenty-
three of section thirty-three hundred two of the public health law and
any natural, synthetic, or semisynthetic "narcotic drug" as defined by
subdivision twenty-two of such section that has agonist, partial agon-
ist, or agonist/antagonist morphine-like activities or effects similar
to natural opium alkaloids, and any derivative, congener, or combination
thereof listed in schedules II-V of section thirty-three hundred six of
the public health law. The term "opioid" shall not mean buprenorphine,
methadone, or morphine.

1 (b) "Unit" shall mean a single finished dosage form of an opioid, such
2 as a pill, tablet, capsule, suppository, transdermal patch, buccal film,
3 milliliter of liquid, milligram of topical preparation, or any other
4 form.

5 (c) "Strength per unit" shall mean the amount of opioid in a unit, as
6 measured by weight, volume, concentration or other metric.

7 (d) "Morphine milligram equivalent conversion factor" shall mean that
8 reference standard of a particular opioid as it relates in potency to
9 morphine as determined by the commissioner of health.

10 (e) "Morphine milligram equivalent" shall mean a unit multiplied by
11 its strength per unit multiplied by the morphine milligram equivalent
12 conversion factor.

13 (f) "Registrant" shall mean any person, firm, corporation or associ-
14 ation required to be registered with the education department as a
15 wholesaler, manufacturer, or outsourcing facility pursuant to section
16 sixty-eight hundred eight or section sixty-eight hundred eight-b of the
17 education law, as well as any person, firm, corporation or association
18 that would be required to be registered with the education department as
19 a wholesaler, manufacturer, or outsourcing facility pursuant to such
20 section sixty-eight hundred eight-b but for the exception in subdivision
21 two of such section; and any person, firm, corporation or association
22 required to be registered with the health department as a manufacturer
23 or distributor of a controlled substance pursuant to section thirty-
24 three hundred ten of the public health law.

25 (g) "Wholesale acquisition cost" shall mean the manufacturer's list
26 price for an opioid unit to wholesalers or direct purchasers in the
27 United States, not including prompt pay or other discounts, rebates or
28 reductions in price, for the most recent month for which the information

1 is available, as reported in wholesale price guides or other publica-
2 tions of drug or biological pricing data.

3 (h) "Sale" shall mean any transfer of title to an opioid for a consid-
4 eration where actual or constructive possession of such opioid is trans-
5 ferred to the purchaser or its designee in this state. A sale shall not
6 include the dispensing of an opioid pursuant to a prescription to an
7 ultimate consumer.

8 § 498. Imposition of excise tax. (a) There is hereby imposed an excise
9 tax on the first sale of any opioid in the state at the following rates:
10 (1) a quarter of a cent per morphine milligram equivalent where the
11 wholesale acquisition cost is less than fifty cents, or (2) one and
12 one-half cents per morphine milligram equivalent where the wholesale
13 acquisition cost is fifty cents or more. The tax imposed by this article
14 shall be charged against and paid by the registrant making such first
15 sale, and shall accrue at the time of such sale. The economic incidence
16 of the tax imposed by this article may be passed to a purchaser. For the
17 purpose of the proper administration of this article and to prevent
18 evasion of the tax hereby imposed, it shall be presumed that any sale of
19 an opioid in this state by a registrant is the first sale of such in the
20 state until the contrary is established, and the burden of proving that
21 any sale is not the first sale in the state shall be upon the regis-
22 trant.

23 (b) Every registrant liable for the tax imposed by this article shall
24 file with the commissioner a return on forms to be prescribed by the
25 commissioner showing the total morphine milligram equivalent and whole-
26 sale acquisition costs of such opioids that are subject to the tax
27 imposed by this article, the amount of tax due thereon, and such further
28 information as the commissioner may require. Such returns shall be filed

1 for quarterly periods ending on the last day of March, June, September
2 and December of each year. Each return shall be filed within twenty days
3 after the end of such quarterly period and shall cover all opioid sales
4 in the state made in the prior quarter, except that the first return
5 required to be filed pursuant to this section shall be due on January
6 twentieth, two thousand twenty, and shall cover all opioid sales occur-
7 ring in the period between the effective date of this article and Decem-
8 ber thirty-first, two thousand nineteen. Every registrant required to
9 file a return under this section shall, at the time of filing such
10 return, pay to the commissioner the total amount of tax due for the
11 period covered by such return. If a return is not filed when due, the
12 tax shall be due the day on which the return is required to be filed.
13 The commissioner may require that the returns and payments required by
14 this section be filed or paid electronically.

15 (c) Where a sale of an opioid by a registrant has been cancelled by
16 the purchaser and tax under this article has previously been paid by the
17 registrant, the commissioner shall allow a credit or refund of such tax
18 on a return for a later period within the limitations period for claim-
19 ing a credit or refund as prescribed by section one thousand eighty-sev-
20 en of this chapter.

21 (d) All sales slips, invoices, receipts, or other statements or memo-
22 randa of sale from any sale or purchase of opioids by registrants must
23 be retained for a period of six years after the due date of the return
24 to which they relate, unless the commissioner provides for a different
25 retention period by rule or regulation. Such records must be sufficient
26 to determine the number of units transferred along with the morphine
27 milligram equivalent of the units transferred, and otherwise be suitable
28 to determine the correct amount of tax due. Such records must also

1 record either (1) the address from which the units are shipped or deliv-
2 ered, along with the address to which the units are shipped or deliv-
3 ered, or (2) the place at which actual physical possession of the units
4 is transferred. Such records shall be produced upon demand by the
5 commissioner.

6 (e) The provisions of article twenty-seven of this chapter shall apply
7 to the tax imposed by this article in the same manner and with the same
8 force and effect as if the language of such article had been incorpo-
9 rated in full into this article and had expressly referred to the tax
10 imposed by this article, except to the extent that any provision of such
11 article twenty-seven is either inconsistent with a provision of this
12 article or is not relevant to this article.

13 (f) The commissioners of education and health shall cooperate with the
14 commissioner in administering this tax, including sharing with the
15 commissioner pertinent information about registrants upon the request of
16 the commissioner.

17 (g) Each registrant shall provide a report to the department of health
18 detailing all opioids sold by such registrant in the state of New York.
19 Such report shall include:

20 (i) the registrant's name, address, phone number, federal Drug
21 Enforcement Agency (DEA) registration number, education department
22 registration number, and controlled substance license number issued by
23 the department of health, if applicable;

24 (ii) the name, address and DEA registration number of the entity to
25 whom the opioid was sold;

26 (iii) the date of the sale of the opioid;

27 (iv) the gross receipt total, in dollars, for each opioid sold;

28 (v) the name and National Drug Code of the opioid sold;

1 (vi) the number of containers and the strength and metric quantity of
2 controlled substance in each container of the opioid sold;
3 (vii) the total number of morphine milligram equivalents sold; and
4 (viii) any other elements as deemed necessary by the commissioner of
5 health.

6 Such information shall be reported annually in such form as defined by
7 the commissioner of health and shall not be subject to the provisions of
8 section four hundred ninety-nine of this article.

9 § 499. Returns to be secret. (a) Except in accordance with a proper
10 judicial order or as otherwise provided for by law, it shall be unlawful
11 for the commissioner, any officer or employee of the department, or any
12 person engaged or retained by such department on an independent contract
13 basis or any other person who in any manner may acquire knowledge of the
14 contents of a return or report filed pursuant to this article to divulge
15 or make known in any manner the contents or any other information
16 relating to the business of a registrant contained in any return or
17 report required under this article. The officers charged with the
18 custody of such returns or reports shall not be required to produce any
19 of them or evidence of anything contained in them in any action or
20 proceeding in any court, except on behalf of the state, the state
21 department of health, the state department of education or the commis-
22 sioner in an action or proceeding under the provisions of this chapter
23 or on behalf of the state or the commissioner in any other action or
24 proceeding involving the collection of a tax due under this chapter to
25 which the state or the commissioner is a party or a claimant or on
26 behalf of any party to any action or proceeding under the provisions of
27 this article, when the returns or the reports or the facts shown thereby
28 are directly involved in such action or proceeding, in any of which

1 events the court may require the production of, and may admit in
2 evidence so much of said returns or reports or of the facts shown there-
3 by as are pertinent to the action or proceeding and no more. Nothing
4 herein shall be construed to prohibit the commissioner, in his or her
5 discretion, from allowing the inspection or delivery of a certified copy
6 of any return or report filed under this article, or from providing any
7 information contained in any such return or report, by or to a duly
8 authorized officer or employee of the state department of health or the
9 state department of education; nor to prohibit the inspection or deliv-
10 ery of a certified copy of any return or report filed under this arti-
11 cle, or the provision of any information contained therein, by or to the
12 attorney general or other legal representatives of the state when an
13 action shall have been recommended or commenced pursuant to this chap-
14 ter in which such returns or reports or the facts shown thereby are
15 directly involved; nor to prohibit the commissioner from providing or
16 certifying to the division of budget or the comptroller the total number
17 of returns or reports filed under this article in any reporting period
18 and the total collections received therefrom; nor to prohibit the
19 inspection of the returns or reports required under this article by the
20 comptroller or duly designated officer or employee of the state depart-
21 ment of audit and control, for purposes of the audit of a refund of any
22 tax paid by a registrant or other person under this article; nor to
23 prohibit the delivery to a registrant, or a duly authorized represen-
24 tative of such registrant, a certified copy of any return or report
25 filed by such registrant pursuant to this article, nor to prohibit the
26 publication of statistics so classified as to prevent the identification
27 of particular returns or reports and the items thereof.

1 (b)(1) Any officer or employee of the state who willfully violates the
2 provisions of subdivision (a) of this section shall be dismissed from
3 office and be incapable of holding any public office in this state for a
4 period of five years thereafter.

5 (2) Cross-reference: For criminal penalties, see article thirty-seven
6 of this chapter.

7 § 2. Section 1825 of the tax law, as amended by section 3 of part NNN
8 of chapter 59 of the laws of 2018, is amended to read as follows:

9 § 1825. Violation of secrecy provisions of the tax law.--Any person
10 who violates the secrecy provisions of [subdivision (b) of section twen-
11 ty-one, subdivision one of section two hundred two, subdivision eight of
12 section two hundred eleven, subdivision (a) of section three hundred
13 fourteen, subdivision one or two of section four hundred thirty-seven,
14 section four hundred eighty-seven, subdivision one or two of section
15 five hundred fourteen, subsection (e) of section six hundred ninety-sev-
16 en, subsection (a) of section nine hundred ninety-four, subdivision (a)
17 of section eleven hundred forty-six, section twelve hundred eighty-sev-
18 en, section twelve hundred ninety-six, section twelve hundred ninety-
19 nine-F, subdivision (a) of section fourteen hundred eighteen, subdivi-
20 sion (a) of section fifteen hundred eighteen, subdivision (a) of section
21 fifteen hundred fifty-five of] this chapter[, and] or subdivision (e) of
22 section 11-1797 of the administrative code of the city of New York shall
23 be guilty of a misdemeanor.

24 § 3. Subdivision 1 of section 171-a of the tax law, as amended by
25 section 3 of part MM of chapter 59 of the laws of 2018, is amended to
26 read as follows:

27 1. All taxes, interest, penalties and fees collected or received by
28 the commissioner or the commissioner's duly authorized agent under arti-

1 cles nine (except section one hundred eighty-two-a thereof and except as
2 otherwise provided in section two hundred five thereof), nine-A,
3 twelve-A (except as otherwise provided in section two hundred eighty-
4 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
5 section three hundred twelve thereof), eighteen, nineteen, twenty
6 (except as otherwise provided in section four hundred eighty-two there-
7 of), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-
8 six, twenty-eight (except as otherwise provided in section eleven
9 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
10 nine-B, thirty-one (except as otherwise provided in section fourteen
11 hundred twenty-one thereof), thirty-three and thirty-three-A of this
12 chapter shall be deposited daily in one account with such responsible
13 banks, banking houses or trust companies as may be designated by the
14 comptroller, to the credit of the comptroller. Such an account may be
15 established in one or more of such depositories. Such deposits shall be
16 kept separate and apart from all other money in the possession of the
17 comptroller. The comptroller shall require adequate security from all
18 such depositories. Of the total revenue collected or received under such
19 articles of this chapter, the comptroller shall retain in the comp-
20 troller's hands such amount as the commissioner may determine to be
21 necessary for refunds or reimbursements under such articles of this
22 chapter out of which amount the comptroller shall pay any refunds or
23 reimbursements to which taxpayers shall be entitled under the provisions
24 of such articles of this chapter. The commissioner and the comptroller
25 shall maintain a system of accounts showing the amount of revenue
26 collected or received from each of the taxes imposed by such articles.
27 The comptroller, after reserving the amount to pay such refunds or
28 reimbursements, shall, on or before the tenth day of each month, pay

1 into the state treasury to the credit of the general fund all revenue
2 deposited under this section during the preceding calendar month and
3 remaining to the comptroller's credit on the last day of such preceding
4 month, (i) except that the comptroller shall pay to the state department
5 of social services that amount of overpayments of tax imposed by article
6 twenty-two of this chapter and the interest on such amount which is
7 certified to the comptroller by the commissioner as the amount to be
8 credited against past-due support pursuant to subdivision six of section
9 one hundred seventy-one-c of this article, (ii) and except that the
10 comptroller shall pay to the New York state higher education services
11 corporation and the state university of New York or the city university
12 of New York respectively that amount of overpayments of tax imposed by
13 article twenty-two of this chapter and the interest on such amount which
14 is certified to the comptroller by the commissioner as the amount to be
15 credited against the amount of defaults in repayment of guaranteed
16 student loans and state university loans or city university loans pursu-
17 ant to subdivision five of section one hundred seventy-one-d and subdivi-
18 sion six of section one hundred seventy-one-e of this article, (iii)
19 and except further that, notwithstanding any law, the comptroller shall
20 credit to the revenue arrearage account, pursuant to section
21 ninety-one-a of the state finance law, that amount of overpayment of tax
22 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
23 or thirty-three of this chapter, and any interest thereon, which is
24 certified to the comptroller by the commissioner as the amount to be
25 credited against a past-due legally enforceable debt owed to a state
26 agency pursuant to paragraph (a) of subdivision six of section one
27 hundred seventy-one-f of this article, provided, however, he shall cred-
28 it to the special offset fiduciary account, pursuant to section ninety-

1 one-c of the state finance law, any such amount creditable as a liabil-
2 ity as set forth in paragraph (b) of subdivision six of section one
3 hundred seventy-one-f of this article, (iv) and except further that the
4 comptroller shall pay to the city of New York that amount of overpayment
5 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
6 thirty-B or thirty-three of this chapter and any interest thereon that
7 is certified to the comptroller by the commissioner as the amount to be
8 credited against city of New York tax warrant judgment debt pursuant to
9 section one hundred seventy-one-l of this article, (v) and except
10 further that the comptroller shall pay to a non-obligated spouse that
11 amount of overpayment of tax imposed by article twenty-two of this chap-
12 ter and the interest on such amount which has been credited pursuant to
13 section one hundred seventy-one-c, one hundred seventy-one-d, one
14 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
15 ty-one-l of this article and which is certified to the comptroller by
16 the commissioner as the amount due such non-obligated spouse pursuant to
17 paragraph six of subsection (b) of section six hundred fifty-one of this
18 chapter; and (vi) the comptroller shall deduct a like amount which the
19 comptroller shall pay into the treasury to the credit of the general
20 fund from amounts subsequently payable to the department of social
21 services, the state university of New York, the city university of New
22 York, or the higher education services corporation, or the revenue
23 arrearage account or special offset fiduciary account pursuant to
24 section ninety-one-a or ninety-one-c of the state finance law, as the
25 case may be, whichever had been credited the amount originally withheld
26 from such overpayment, and (vii) with respect to amounts originally
27 withheld from such overpayment pursuant to section one hundred seventy-

1 one-1 of this article and paid to the city of New York, the comptroller
2 shall collect a like amount from the city of New York.

3 § 4. Subdivision 1 of section 171-a of the tax law, as amended by
4 section 4 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-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-
15 eight (except as otherwise provided in section eleven hundred two or
16 eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one
17 (except as otherwise provided in section fourteen hundred twenty-one
18 thereof), thirty-three and thirty-three-A of this chapter shall be
19 deposited daily in one account with such responsible banks, banking
20 houses or trust companies as may be designated by the comptroller, to
21 the credit of the comptroller. Such an account may be established in one
22 or more of such depositories. Such deposits shall be kept separate and
23 apart from all other money in the possession of the comptroller. The
24 comptroller shall require adequate security from all such depositories.
25 Of the total revenue collected or received under such articles of this
26 chapter, the comptroller shall retain in the comptroller's hands such
27 amount as the commissioner may determine to be necessary for refunds or
28 reimbursements under such articles of this chapter out of which amount

1 the comptroller shall pay any refunds or reimbursements to which taxpay-
2 ers shall be entitled under the provisions of such articles of this
3 chapter. The commissioner and the comptroller shall maintain a system of
4 accounts showing the amount of revenue collected or received from each
5 of the taxes imposed by such articles. The comptroller, after reserving
6 the amount to pay such refunds or reimbursements, shall, on or before
7 the tenth day of each month, pay into the state treasury to the credit
8 of the general fund all revenue deposited under this section during the
9 preceding calendar month and remaining to the comptroller's credit on
10 the last day of such preceding month, (i) except that the comptroller
11 shall pay to the state department of social services that amount of
12 overpayments of tax imposed by article twenty-two of this chapter and
13 the interest on such amount which is certified to the comptroller by the
14 commissioner as the amount to be credited against past-due support
15 pursuant to subdivision six of section one hundred seventy-one-c of this
16 article, (ii) and except that the comptroller shall pay to the New York
17 state higher education services corporation and the state university of
18 New York or the city university of New York respectively that amount of
19 overpayments of tax imposed by article twenty-two of this chapter and
20 the interest on such amount which is certified to the comptroller by the
21 commissioner as the amount to be credited against the amount of defaults
22 in repayment of guaranteed student loans and state university loans or
23 city university loans pursuant to subdivision five of section one
24 hundred seventy-one-d and subdivision six of section one hundred seven-
25 ty-one-e of this article, (iii) and except further that, notwithstanding
26 any law, the comptroller shall credit to the revenue arrearage account,
27 pursuant to section ninety-one-a of the state finance law, that amount
28 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-

1 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
2 thereon, which is certified to the comptroller by the commissioner as
3 the amount to be credited against a past-due legally enforceable debt
4 owed to a state agency pursuant to paragraph (a) of subdivision six of
5 section one hundred seventy-one-f of this article, provided, however, he
6 shall credit to the special offset fiduciary account, pursuant to
7 section ninety-one-c of the state finance law, any such amount credita-
8 ble as a liability as set forth in paragraph (b) of subdivision six of
9 section one hundred seventy-one-f of this article, (iv) and except
10 further that the comptroller shall pay to the city of New York that
11 amount of overpayment of tax imposed by article nine, nine-A, twenty-
12 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
13 interest thereon that is certified to the comptroller by the commission-
14 er as the amount to be credited against city of New York tax warrant
15 judgment debt pursuant to section one hundred seventy-one-l of this
16 article, (v) and except further that the comptroller shall pay to a
17 non-obligated spouse that amount of overpayment of tax imposed by arti-
18 cle twenty-two of this chapter and the interest on such amount which has
19 been credited pursuant to section one hundred seventy-one-c, one hundred
20 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
21 one hundred seventy-one-l of this article and which is certified to the
22 comptroller by the commissioner as the amount due such non-obligated
23 spouse pursuant to paragraph six of subsection (b) of section six
24 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
25 a like amount which the comptroller shall pay into the treasury to the
26 credit of the general fund from amounts subsequently payable to the
27 department of social services, the state university of New York, the
28 city university of New York, or the higher education services corpo-

1 ration, or the revenue arrearage account or special offset fiduciary
2 account pursuant to section ninety-one-a or ninety-one-c of the state
3 finance law, as the case may be, whichever had been credited the amount
4 originally withheld from such overpayment, and (vii) with respect to
5 amounts originally withheld from such overpayment pursuant to section
6 one hundred seventy-one-1 of this article and paid to the city of New
7 York, the comptroller shall collect a like amount from the city of New
8 York.

9 § 5. This act shall take effect July 1, 2019; provided, however, that
10 the amendments to subdivision 1 of section 171-a of the tax law made by
11 section three of this act shall not affect the expiration of such subdivi-
12 sion and shall expire therewith, when upon such date the provisions of
13 section four of this act shall take effect.

1 sixty-six-a of this article, but which is a retail sale of such passen-
2 ger car within the state.

3 (b) Except to the extent that a passenger car rental described in
4 subdivision (a) of this section or in section eleven hundred
5 sixty-six-a of this article, has already been subject to the tax imposed
6 under such subdivision or section, and except as otherwise exempted
7 under this article, there is hereby imposed on every person and there
8 shall be paid a use tax for the use within the state of any passenger
9 car rented by the user that is a purchase at retail of such passenger
10 car, but not including any lease of a passenger car to which subdivision
11 (i) of section eleven hundred eleven of this chapter applies. For
12 purposes of this subdivision, the tax shall be at the rate of five
13 percent of the consideration given or contracted to be given for such
14 property, or for the use of such property, including any charges for
15 shipping or delivery as described in paragraph three of subdivision (b)
16 of section eleven hundred one of this chapter, but excluding any credit
17 for tangible personal property accepted in part payment and intended for
18 resale.

19 § 3. Section 1167 of the tax law, as amended by section 3 of part F of
20 chapter 25 of the laws of 2009, is amended to read as follows:

21 § 1167. Deposit and disposition of revenue. All taxes, interest and
22 penalties collected or received by the commissioner under this article
23 shall be deposited and disposed of pursuant to the provisions of section
24 one hundred seventy-one-a of this chapter, except that after reserving
25 amounts in accordance with such section one hundred seventy-one-a of
26 this chapter, the remainder shall be paid by the comptroller to the
27 credit of the highway and bridge trust fund established by section
28 eighty-nine-b of the state finance law, provided, however[,]: (a) taxes,
29 interest and penalties collected or received pursuant to section eleven
30 hundred sixty-six-a of this article shall be paid to the credit of the
31 metropolitan transportation authority aid trust account of the metropol-
32 itan transportation authority financial assistance fund established by
33 section ninety-two-ff of the state finance law; and (b) taxes, interest
34 and penalties collected or received pursuant to section eleven hundred
35 sixty-six-b of this article shall be paid to the credit of the public
36 transportation systems operating assistance account established by
37 section eighty-eight-a of the state finance law.

38 § 4. This act shall take effect September 1, 2019, and shall apply to
39 rentals of passenger cars commencing on and after such date whether or
40 not under a prior contract; provided, however where such passenger car
41 rentals are billed on a monthly, quarterly or other period basis, the
42 tax imposed by this act shall apply to the rental for such period if
43 more than half of the days included in such period are days subsequent
44 to such effective date.

45 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
46 sion, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.

54 § 3. This act shall take effect immediately provided, however, that
55 the applicable effective date of Parts A through WW of this act shall be
56 as specifically set forth in the last section of such Parts.