

PROGRAM BILL # 57

S. _____
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.---

with M. of A. as co-sponsors

--read once and referred to the
Committee on

PUBHEALA
(Relates to the medical use of mari-
huana)

Pub Heal. med use of marihuana

AN ACT

to amend the public health law, the
tax law, the state finance law, the
general business law, the penal law
and the criminal procedure law, in
relation to medical use of marihua-
na; and providing for the repeal of
such provisions upon expiration
thereof

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

s15 Addabbo	s02 Flanagan	s28 Krueger	s55 O'Brien	s51 Seward
s11 Avella	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s40 Ball	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s42 Bonacic	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s04 Boyle	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s44 Breslin	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart-
s38 Carlucci	s60 Grisanti	s45 Little	s48 Ritchie	Cousins
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s33 Rivera	s46 Tkaczyk
s32 Diaz	s36 Hassell-	s43 Marchione	s56 Robach	s53 Valenky
s18 Dilan	Thompson	s07 Martins	s19 Sampson	s57 Young
s31 Espaillat	s27 Hoylman	s62 Maziarz	s10 Sanders	s03 Zeldin
s49 Farley	s63 Kennedy	s25 Montgomery	s23 Savino	s08
s17 Felder	s34 Klein	s54 Nozzolio	s29 Serrano	s20

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a147 DiPietro	a076 Kellner	a132 Palmesano	a099 Skoufis
a092 Abinanti	a115 Duprey	a040 Kim	a002 Palumbo	a022 Solages
a084 Arroyo	a004 Englebright	a131 Kolb	a088 Paulin	a114 Stec
a035 Aubry	a109 Paby	a105 Lalor	a141 Peoples-	a110 Steck
a120 Barclay	a071 Farrell	a013 Lavine	Stokes	a127 Stirpe
a106 Barrett	a126 Finch	a050 Lentol	a058 Perry	a011 Sweney
a082 Benedetto	a008 Fitzpatrick	a125 Lifton	a086 Richardo	a112 Tedisco
a117 Blankenbush	a124 Friend	a102 Lopez, P.	a089 Pretlow	a101 Tenney
a062 Borelli	a095 Galef	a123 Lupardo	a073 Quart	a001 Thiele
a026 Braunstein	a137 Gantt	a010 Lupinacci	a019 Ra	a061 Titone
a044 Brennan	a007 Garbarino	a121 Magee	a012 Raia	a031 Titus
a119 Brindisi	a148 Giglio	a129 Magnarelli	a006 Ramos	a146 Walter
a138 Bronson	a080 Gjonaj	a064 Malliotakis	a078 Rivera	a041 Weinstein
a046 Brook-Krasny	a066 Glick	a030 Markey	a128 Roberts	a020 Weisenberg
a093 Buchwald	a023 Goldfeder	a090 Mayer	a056 Robinson	a024 Weprin
a118 Butler	a150 Goodell	a108 McDonald	a068 Rodriguez	a070 Wright
a103 Cahill	a075 Gottfried	a014 McDonough	a072 Rosa	a096 Zebrowski
a043 Camara	a005 Graf	a017 McKeivitt	a067 Rosenthal	a054
a145 Ceretto	a100 Gunther	a107 McLaughlin	a025 Rozic	a055
a033 Clark	a139 Hawley	a038 Miller	a116 Russell	a059
a047 Colton	a083 Heastie	a052 Millman	a149 Ryan	a060
a032 Cook	a003 Hennessey	a015 Montesano	a009 Saladino	a077
a144 Corwin	a028 Hevesi	a136 Morelle	a111 Santabarbara	a079
a085 Crespo	a048 Hkind	a057 Mosley	a029 Scarborough	a098
a122 Crouch	a018 Hooper	a039 Moya	a016 Schimel	a113
a021 Curran	a042 Jacobs	a133 Nojay	a140 Schimminger	a134
a063 Cusick	a097 Jaffee	a037 Nolan	a087 Sepulveda	a143
a045 Cymbrowitz	a135 Johns	a130 Oaks	a065 Silver	
a053 Davila	a094 Katz	a069 O'Donnell	a027 Simanowitz	
a034 DenDekker	a074 Kavanagh	a051 Ortiz	a036 Simotas	
a081 Dinowitz	a142 Kearns	a091 Otis	a104 Skartados	

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Article 33 of the public health law is amended by adding a
2 new title 5-A to read as follows:

3 TITLE V-A

4 MEDICAL USE OF MARIHUANA

5 Section 3360. Definitions.

6 3361. Certification of patients.

7 3362. Lawful medical use.

8 3363. Registry identification cards.

9 3364. Registered organizations.

10 3365. Registering of registered organizations.

11 3366. Reports by registered organizations.

12 3367. Evaluation; research programs; report by department.

13 3368. Relation to other laws.

14 3369. Protections for the medical use of marihuana.

15 3369-a. Regulations.

16 3369-b. Effective date.

17 3369-c. Suspend; terminate.

18 3369-d. Pricing.

19 3369-e. Severability.

20 § 3360. Definitions. As used in this title, the following terms shall
21 have the following meanings, unless the context clearly requires other-
22 wise:

23 1. "Certified medical use" means the acquisition, possession, use, or,
24 transportation of medical marihuana by a certified patient, or the
25 acquisition, possession, delivery, transportation or administration of
26 medical marihuana by a designated caregiver, for use as part of the
27 treatment of the patient's serious condition, as authorized in a certif-
28 ication under this title including enabling the patient to tolerate

1 treatment for the serious condition. A certified medical use does not
2 include smoking.

3 2. "Caring for" means treating a patient, in the course of which the
4 practitioner has completed a full assessment of the patient's medical
5 history and current medical condition.

6 3. "Certified patient" means a patient who is a resident of New York
7 state or receiving care and treatment in New York state as determined by
8 the commissioner in regulation, and is certified under section thirty-
9 three hundred sixty-one of this title.

10 4. "Certification" means a certification, made under section thirty-
11 three hundred sixty-one of this title.

12 5. "Designated caregiver" means the individual designated by a certi-
13 fied patient in a registry application. A certified patient may desig-
14 nate up to two designated caregivers.

15 6. "Public place" means a public place as defined in regulation by the
16 commissioner.

17 7. (a) "Serious condition" means:

18 (i) having one of the following severe debilitating or life-threaten-
19 ing conditions: cancer, positive status for human immunodeficiency
20 virus or acquired immune deficiency syndrome, amyotrophic lateral scler-
21 osis, Parkinson's disease, multiple sclerosis, damage to the nervous
22 tissue of the spinal cord with objective neurological indication of
23 intractable spasticity, epilepsy, inflammatory bowel disease, neuropa-
24 thies, Huntington's disease, or as added by the commissioner; and

25 (ii) any of the following conditions where it is clinically associated
26 with, or a complication of, a condition under this paragraph or its
27 treatment: cachexia or wasting syndrome; severe or chronic pain; severe

1 nausea; seizures; severe or persistent muscle spasms; or such conditions
2 as are added by the commissioner.

3 (b) No later than eighteen months from the effective date of this
4 section, the commissioner shall determine whether to add the following
5 serious conditions: Alzheimer's, muscular dystrophy, dystonia, post-
6 traumatic stress disorder and rheumatoid arthritis.

7 8. "Medical marihuana" means marihuana as defined in subdivision twen-
8 ty-one of section thirty-three hundred two of this article, intended for
9 a certified medical use, as determined by the commissioner in his or her
10 sole discretion. Any form of medical marihuana not approved by the
11 commissioner is expressly prohibited.

12 9. "Registered organization" means a registered organization under
13 sections thirty-three hundred sixty-four and thirty-three hundred
14 sixty-five of this title.

15 10. "Registry application" means an application properly completed and
16 filed with the department by a certified patient under section thirty-
17 three hundred sixty-three of this title.

18 11. "Registry identification card" means a document that identifies a
19 certified patient or designated caregiver, as provided under section
20 thirty-three hundred sixty-three of this title.

21 12. "Practitioner" means a practitioner who (i) is a physician
22 licensed by New York state and practicing within the state, (ii) who by
23 training or experience is qualified to treat a serious condition as
24 defined in subdivision seven of this section; and (iii) has completed a
25 two to four hour course as determined by the commissioner in regulation
26 and registered with the department; provided however, a registration
27 shall not be denied without cause. Such course may count toward board
28 certification requirements. The commissioner shall consider the inclu-

1 sion of nurse practitioners under this title based upon considerations
2 including access and availability. After such consideration the commis-
3 sioner is authorized to deem nurse practitioners as practitioners under
4 this title.

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

8 14. "Labor peace agreement" means an agreement between an entity and a
9 labor organization that, at a minimum, protects the state's proprietary
10 interests by prohibiting labor organizations and members from engaging
11 in picketing, work stoppages, boycotts, and any other economic interfer-
12 ence with the registered organization's business.

13 15. "Individual dose" means a single measure of raw medical marihuana
14 or non-infused concentrates to be determined and clearly identified by a
15 patient's practitioner for the patient's specific certified condition.
16 For ingestible or sub-lingual medical marihuana products, no individual
17 dose may contain more than ten milligrams of tetrahydrocannabinol.

18 16. "Form of medical marihuana" means characteristics of the medical
19 marihuana recommended or limited for a particular certified patient,
20 including the method of consumption and any particular strain, variety,
21 and quantity or percentage of marihuana or particular active ingredient.

22 17. "Applicant" means a for-profit entity or not-for-profit corpo-
23 ration and includes: board members, officers, managers, owners, part-
24 ners, principal stakeholders and members who submit an application to
25 become a registered organization.

26 § 3361. Certification of patients. 1. A patient certification may only
27 be issued if: (a) a practitioner has been registered with the department
28 to issue a certification as determined by the commissioner; (b) the

1 patient has a serious condition, which shall be specified in the
2 patient's health care record; (c) the practitioner by training or expe-
3 rience is qualified to treat the serious condition; (d) the patient is
4 under the practitioner's continuing care for the serious condition; and
5 (e) in the practitioner's professional opinion and review of past treat-
6 ments, the patient is likely to receive therapeutic or palliative bene-
7 fit from the primary or adjunctive treatment with medical use of mari-
8 huana for the serious condition.

9 2. The certification shall include (a) the name, date of birth and
10 address of the patient; (b) a statement that the patient has a serious
11 condition and the patient is under the practitioner's care for the seri-
12 ous condition; (c) a statement attesting that all requirements of subdivi-
13 vision one of this section have been satisfied; (d) the date; and (e)
14 the name, address, federal registration number, telephone number, and
15 the handwritten signature of the certifying practitioner. The commis-
16 sioner may require by regulation that the certification shall be on a
17 form provided by the department. The practitioner may state in the
18 certification that, in the practitioner's professional opinion, the
19 patient would benefit from medical marihuana only until a specified
20 date. The practitioner may state in the certification that, in the prac-
21 titioner's professional opinion, the patient is terminally ill and that
22 the certification shall not expire until the patient dies.

23 3. In making a certification, the practitioner shall consider the form
24 of medical marihuana the patient should consume, including the method of
25 consumption and any particular strain, variety, and quantity or percent-
26 age of marihuana or particular active ingredient, and appropriate
27 dosage. The practitioner shall state in the certification any recommen-
28 dation or limitation the practitioner makes, in his or her professional

1 opinion, concerning the appropriate form or forms of medical marihuana
2 and dosage.

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

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

12 6. No practitioner shall issue a certification under this section for
13 himself or herself.

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

17 8. (a) If the practitioner states in the certification that, in the
18 practitioner's professional opinion, the patient would benefit from
19 medical marihuana only until a specified earlier date, then the registry
20 identification card shall expire on that date;

21 (b) If the practitioner states in the certification that in the prac-
22 titioner's professional opinion the patient is terminally ill and that
23 the certification shall not expire until the patient dies, then the
24 registry identification card shall state that the patient is terminally
25 ill and that the registration card shall not expire until the patient
26 dies;

27 (c) If the practitioner re-issues the certification to terminate the
28 certification on an earlier date, then the registry identification card

1 shall expire on that date and shall be promptly returned by the certi-
2 fied patient to the department;

3 (d) If the certification so provides, the registry identification card
4 shall state any recommendation or limitation by the practitioner as to
5 the form or forms of medical marihuana or dosage for the certified
6 patient; and

7 (e) The commissioner shall make regulations to implement this subdivi-
8 sion.

9 § 3362. Lawful medical use. 1. The possession, acquisition, use,
10 delivery, transfer, transportation, or administration of medical mari-
11 huana by a certified patient or designated caregiver possessing a valid
12 registry identification card, for certified medical use, shall be lawful
13 under this title; provided that:

14 (a) the marihuana that may be possessed by a certified patient shall
15 not exceed a thirty day supply of the dosage as determined by the prac-
16 titioner, consistent with any guidance and regulations issued by the
17 commissioner, provided that during the last seven days of any thirty day
18 period, the certified patient may also possess up to such amount for the
19 next thirty day period;

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

24 (c) the form or forms of medical marihuana that may be possessed by
25 the certified patient or designated caregiver pursuant to a certif-
26 ication shall be in compliance with any recommendation or limitation by
27 the practitioner as to the form or forms of medical marihuana or dosage
28 for the certified patient in the certification; and

1 (d) the medical marihuana shall be kept in the original package in
2 which it was dispensed under subdivision twelve of section thirty-three
3 hundred sixty-four of this title, except for the portion removed for
4 immediate consumption for certified medical use by the certified
5 patient.

6 2. Notwithstanding subdivision one of this section:

7 (a) possession of medical marihuana shall not be lawful under this
8 title if it is smoked, consumed, vaporized, or grown in a public place,
9 regardless of the form of medical marihuana stated in the patient's
10 certification.

11 (b) a person possessing medical marihuana under this title shall
12 possess his or her registry identification card at all times when in
13 immediate possession of medical marihuana.

14 § 3363. Registry identification cards. 1. Upon approval of the certif-
15 ication, the department shall issue registry identification cards for
16 certified patients and designated caregivers. A registry identification
17 card shall expire as provided in section thirty-three hundred sixty-one
18 of this title or as otherwise provided in this section. The department
19 shall begin issuing registry identification cards as soon as practicable
20 after the certifications required by section thirty-three hundred
21 sixty-nine-b are granted. The department may specify a form for a regis-
22 try application, in which case the department shall provide the form on
23 request, reproductions of the form may be used, and the form shall be
24 available for downloading from the department's website.

25 2. To obtain, amend or renew a registry identification card, a certi-
26 fied patient or designated caregiver shall file a registry application
27 with the department. The registry application or renewal application
28 shall include:

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

2 (i) the patient's certification (a new written certification shall be
3 provided with a renewal application);

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

5 (iii) the date of the certification;

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

9 (v) the specified date until which the patient would benefit from
10 medical marihuana, if the certification states such a date;

11 (vi) the name, address, federal registration number, and telephone
12 number of the certifying practitioner;

13 (vii) any recommendation or limitation by the practitioner as to the
14 form or forms of medical marihuana or dosage for the certified patient;
15 and

16 (viii) other individual identifying information required by the
17 department;

18 (b) in the case of a certified patient, if the patient designates a
19 designated caregiver, the name, address, and date of birth of the desig-
20 nated caregiver, and other individual identifying information required
21 by the department;

22 (c) in the case of a designated caregiver:

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

24 (ii) if the designated caregiver has a registry identification card,
25 the registry identification number and expiration date of that registry
26 identification card; and

27 (iii) other individual identifying information required by the depart-
28 ment;

1 (d) a statement that a false statement made in the application is
2 punishable under section 210.45 of the penal law;

3 (e) the date of the application and the signature of the certified
4 patient or designated caregiver, as the case may be;

5 (f) a fifty dollar application fee, provided, that the department may
6 wave or reduce the fee in cases of financial hardship; and

7 (g) any other requirements determined by the commissioner.

8 3. Where a certified patient is under the age of eighteen:

9 (a) The application for a registry identification card shall be made
10 by an appropriate person over twenty-one years of age. The application
11 shall state facts demonstrating that the person is appropriate.

12 (b) The designated caregiver shall be (i) a parent or legal guardian
13 of the certified patient, (ii) a person designated by a parent or legal
14 guardian, or (iii) an appropriate person approved by the department upon
15 a sufficient showing that no parent or legal guardian is appropriate or
16 available.

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

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

24 6. If a certified patient wishes to change or terminate his or her
25 designated caregiver, for whatever reason, the certified patient shall
26 notify the department as soon as practicable. The department shall issue
27 a notification to the designated caregiver that their registration card
28 is invalid and must be promptly returned to the department. The newly

1 designated caregiver must comply with all requirements set forth in this
2 section.

3 7. If the certification so provides, the registry identification card
4 shall contain any recommendation or limitation by the practitioner as to
5 the form or forms of medical marihuana or dosage for the certified
6 patient.

7 8. The department shall issue separate registry identification cards
8 for certified patients and designated caregivers as soon as reasonably
9 practicable after receiving a complete application under this section,
10 unless it determines that the application is incomplete or factually
11 inaccurate, in which case it shall promptly notify the applicant.

12 9. If the application of a certified patient designates an individual
13 as a designated caregiver who is not authorized to be a designated care-
14 giver, that portion of the application shall be denied by the department
15 but that shall not affect the approval of the balance of the applica-
16 tion.

17 10. A registry identification card shall:

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

20 (b) contain the date of issuance and expiration date of the registry
21 identification card;

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

25 (d) contain a photograph of the individual to whom the registry iden-
26 tification card is being issued, which shall be obtained by the depart-
27 ment in a manner specified by the commissioner in regulations; provided,
28 however, that if the department requires certified patients to submit

1 photographs for this purpose, there shall be a reasonable accommodation
2 of certified patients who are confined to their homes due to their
3 medical conditions and may therefore have difficulty procuring photo-
4 graphs;

5 (e) be a secure document as determined by the department;

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

9 (g) any other requirements determined by the commissioner.

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

17 12. If a certified patient or designated caregiver loses his or her
18 registry identification card, he or she shall notify the department and
19 submit a twenty-five dollar fee within ten days of losing the card to
20 maintain the registration. The department may establish higher fees for
21 issuing a new registry identification card for second and subsequent
22 replacements for a lost card, provided, that the department may waive or
23 reduce the fee in cases of financial hardship. The department shall
24 issue a new registry identification card as soon as practicable, which
25 may contain a new registry identification number, to the certified
26 patient or designated caregiver, as the case may be. The certified
27 patient or designated caregiver shall not be able to obtain medical
28 marihuana until the certified patient receives a new card.

1 13. The department shall maintain a confidential list of the persons
2 to whom it has issued registry identification cards. Individual identi-
3 fying information obtained by the department under this title shall be
4 confidential and exempt from disclosure under article six of the public
5 officers law. Notwithstanding this subdivision, the department may
6 notify any appropriate law enforcement agency of information relating to
7 any violation or suspected violation of this title.

8 14. The department shall verify to law enforcement personnel in an
9 appropriate case whether a registry identification card is valid.

10 15. If a certified patient or designated careqiver willfully violates
11 any provision of this title as determined by the department, his or her
12 registry identification card may be suspended or revoked. This is in
13 addition to any other penalty that may apply.

14 § 3364. Registered organizations. 1. A registered organization shall
15 be a for-profit business entity or not-for-profit corporation organized
16 for the purpose of acquiring, possessing, manufacturing, selling, deliv-
17 ering, transporting, distributing or dispensing marihuana for certified
18 medical use.

19 2. The acquiring, possession, manufacture, sale, delivery, transport-
20 ing, distributing or dispensing of marihuana by a registered organiza-
21 tion under this title in accordance with its registration under section
22 thirty-three hundred sixty-five of this title or a renewal thereof shall
23 be lawful under this title.

24 3. Each registered organization shall contract with an independent
25 laboratory to test the medical marihuana produced by the registered
26 organization. The commissioner shall approve the laboratory and require
27 that the laboratory report testing results in a manner determined by the

1 commissioner. The commissioner is authorized to issue regulation requir-
2 ing the laboratory to perform certain tests and services.

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

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

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

1 medical marihuana larger than that individual would be allowed to
2 possess under this title.

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

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

15 6. When a registered organization sells, delivers, distributes or
16 dispenses medical marihuana to a certified patient or designated care-
17 giver, it shall provide to that individual a safety insert, which will
18 be developed and approved by the commissioner and include, but not be
19 limited to, information on:

20 (a) methods for administering medical marihuana in individual doses,
21 (b) any potential dangers stemming from the use of medical marihuana,
22 (c) how to recognize what may be problematic usage of medical marihua-
23 na and obtain appropriate services or treatment for problematic usage,
24 and
25 (d) other information as determined by the commissioner.

26 7. Registered organizations shall not be managed by or employ anyone
27 who has been convicted of any felony of sale or possession of drugs,
28 narcotics, or controlled substances provided that this subdivision only

1 applies to (a) managers or employees who come into contact with or
2 handle medical marihuana, and (b) a conviction less than ten years (not
3 counting time spent in incarceration) prior to being employed, for which
4 the person has not received a certificate of relief from disabilities or
5 a certificate of good conduct under article twenty-three of the
6 correction law.

7 8. Manufacturing of medical marihuana by a registered organization
8 shall only be done in an indoor, enclosed, secure facility located in
9 New York state, which may include a greenhouse. The commissioner shall
10 promulgate regulations establishing requirements for such facilities.

11 9. Dispensing of medical marihuana by a registered organization shall
12 only be done in an indoor, enclosed, secure facility located in New York
13 state, which may include a greenhouse. The commissioner shall promul-
14 gate regulations establishing requirements for such facilities.

15 10. A registered organization shall determine the quality, safety, and
16 clinical strength of medical marihuana manufactured or dispensed by the
17 registered organization, and shall provide documentation of that quali-
18 ty, safety and clinical strength to the department and to any person or
19 entity to which the medical marihuana is sold or dispensed.

20 11. A registered organization shall be deemed to be a "health care
21 provider" for the purposes of title two-D of article two of this chap-
22 ter.

23 12. Medical marihuana shall be dispensed to a certified patient or
24 designated caregiver in a sealed and properly labeled package. The
25 labeling shall contain: (a) the information required to be included in
26 the receipt provided to the certified patient or designated caregiver by
27 the registered organization; (b) the packaging date; (c) any applicable
28 date by which the medical marihuana should be used; (d) a warning stat-

1 ing, "This product is for medicinal use only. Women should not consume
2 during pregnancy or while breastfeeding except on the advice of the
3 certifying health care practitioner, and in the case of breastfeeding
4 mothers, including the infant's pediatrician. This product might impair
5 the ability to drive. Keep out of reach of children."; (e) the amount of
6 individual doses contained within; and (f) a warning that the medical
7 marihuana must be kept in the original container in which it was
8 dispensed.

9 13. The commissioner is authorized to make rules and regulations
10 restricting the advertising and marketing of medical marihuana, which
11 shall be consistent with the federal regulations governing prescription
12 drug advertising and marketing.

13 § 3365. Registering of registered organizations. 1. Application for
14 initial registration. (a) An applicant for registration as a registered
15 organization under section thirty-three hundred sixty-four of this title
16 shall include such information prepared in such manner and detail as the
17 commissioner may require, including but not limited to:

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

20 (ii) that the applicant:

21 (A) is of good moral character;

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

26 (C) is able to maintain effective security and control to prevent
27 diversion, abuse, and other illegal conduct relating to the marihuana;

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

4 (iii) that the applicant has entered into a labor peace agreement with
5 a bona-fide labor organization that is actively engaged in representing
6 or attempting to represent the applicant's employees. The maintenance of
7 such a labor peace agreement shall be an ongoing material condition of
8 certification.

9 (iv) the applicant's status under subdivision one of section thirty-
10 three hundred sixty-four of this title; and

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

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

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

22 (C) such other information as the commissioner may reasonably require.

23 2. Duty to report. The applicant shall be under a continuing duty to
24 report to the department any change in facts or circumstances reflected
25 in the application or any newly discovered or occurring fact or circum-
26 stance which is required to be included in the application.

1 3. Granting of registration. (a) The commissioner shall grant a regis-
2 tration or amendment to a registration under this section if he or she
3 is satisfied that:

4 (i) the applicant will be able to maintain effective control against
5 diversion of marihuana;

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

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

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

14 (v) it is in the public interest that such registration be granted;
15 the commissioner may consider whether the number of registered organiza-
16 tions in an area will be adequate or excessive to reasonably serve the
17 area;

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

20 (vii) the applicant has entered into a labor peace agreement with a
21 bona-fide labor organization that is actively engaged in representing or
22 attempting to represent the applicant's employees; and

23 (viii) the applicant satisfies any other conditions as determined by
24 the commissioner.

25 (b) If the commissioner is not satisfied that the applicant should be
26 issued a registration, he or she shall notify the applicant in writing
27 of those factors upon which further evidence is required. Within thirty

1 days of the receipt of such notification, the applicant may submit addi-
2 tional material to the commissioner or demand a hearing, or both.

3 (c) The fee for a registration under this section shall be a reason-
4 able amount determined by the department in regulations; provided,
5 however, if the registration is issued for a period greater than two
6 years the fee shall be increased, pro rata, for each additional month of
7 validity.

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

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

11 (ii) which activities of a registered organization are permitted by
12 the registration;

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

15 (iv) such other information as the commissioner shall reasonably
16 provide to assure compliance with this title.

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

22 4. A registration issued under this section shall be valid for two
23 years from the date of issue, except that in order to facilitate the
24 renewals of such registrations, the commissioner may upon the initial
25 application for a registration, issue some registrations which may
26 remain valid for a period of time greater than two years but not exceed-
27 ing an additional eleven months.

1 5. Applications for renewal of registrations. (a) An application for
2 the renewal of any registration issued under this section shall be filed
3 with the department not more than six months nor less than four months
4 prior to the expiration thereof. A late-filed application for the
5 renewal of a registration may, in the discretion of the commissioner, be
6 treated as an application for an initial license.

7 (b) The application for renewal shall include such information
8 prepared in the manner and detail as the commissioner may require,
9 including but not limited to:

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

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

15 (A) each incident or alleged incident involving the theft, loss, or
16 possible diversion of marihuana manufactured or distributed by the
17 applicant; and

18 (B) compliance by the applicant with the laws of the state with
19 respect to any substance listed in section thirty-three hundred six of
20 this article.

21 (c) An applicant for renewal shall be under a continuing duty to
22 report to the department any change in facts or circumstances reflected
23 in the application or any newly discovered or occurring fact or circum-
24 stance which is required to be included in the application.

25 (d) If the commissioner is not satisfied that the applicant is enti-
26 tled to a renewal of the registration, he or she shall within a reason-
27 ably practicable time as determined by the commissioner, serve upon the
28 applicant or his or her attorney of record in person or by registered or

1 certified mail an order directing the applicant to show cause why his or
2 her application for renewal should not be denied. The order shall speci-
3 fy in detail the respects in which the applicant has not satisfied the
4 commissioner that the registration should be renewed.

5 (e) Within a reasonably practicable time as determined by the commis-
6 sioner of such order, the applicant may submit additional material to
7 the commissioner or demand a hearing or both. If a hearing is demanded
8 the commissioner shall fix a date as soon as reasonably practicable.

9 6. Granting of renewal of registrations. (a) The commissioner shall
10 renew a registration unless he or she determines and finds that:

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

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

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

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

20 (b) For purposes of this section, proof that a registered organiza-
21 tion, during the period of its registration, has failed to maintain
22 effective control against diversion, violates any provision of this
23 article, or has knowingly or negligently failed to comply with applica-
24 ble state laws relating to the activities in which it engages under the
25 registration, shall constitute grounds for suspension or termination of
26 the registered organization's registration as determined by the commis-
27 sioner. The registered organization shall also be under a continuing
28 duty to report to the department any material change or fact or circum-

1 stance to the information provided in the registered organization's
2 application.

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

11 8. The department shall begin issuing registrations for registered
12 organizations as soon as practicable after the certifications required
13 by section thirty-three hundred sixty-nine-b of this title are given.

14 9. The commissioner shall register no more than five registered organ-
15 izations that manufacture medical marihuana with no more than four
16 dispensing sites wholly owned and operated by such registered organiza-
17 tion. The commissioner shall ensure that such registered organizations
18 and dispensing sites are geographically distributed across the state.
19 The commission may register additional registered organizations.

20 § 3366. Reports by registered organizations. 1. The commissioner
21 shall, by regulation, require each registered organization to file
22 reports by the registered organization during a particular period. The
23 commissioner shall determine the information to be reported and the
24 forms, time, and manner of the reporting.

25 2. The commissioner shall, by regulation, require each registered
26 organization to adopt and maintain security, tracking, record keeping,
27 record retention and surveillance systems, relating to all medical mari-
28 huana at every stage of acquiring, possession, manufacture, sale, deliv-

1 ery, transporting, distributing, or dispensing by the registered organ-
2 ization, subject to regulations of the commissioner.

3 § 3367. Evaluation; research programs; report by department. 1. The
4 commissioner may provide for the analysis and evaluation of the opera-
5 tion of this title. The commissioner may enter into agreements with one
6 or more persons, not-for-profit corporations or other organizations, for
7 the performance of an evaluation of the implementation and effectiveness
8 of this title.

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

13 3. The department shall report every two years, beginning two years
14 after the effective date of this title, to the governor and the legisla-
15 ture on the medical use of marihuana under this title and make appropri-
16 ate recommendations.

17 § 3368. Relation to other laws. 1. (a) The provisions of this article
18 shall apply to this title, except that where a provision of this title
19 conflicts with another provision of this article, this title shall
20 apply.

21 (b) Medical marihuana shall not be deemed to be a "drug" for purposes
22 of article one hundred thirty-seven of the education law.

23 2. Nothing in this title shall be construed to require an insurer or
24 health plan under this chapter or the insurance law to provide coverage
25 for medical marihuana. Nothing in this title shall be construed to
26 require coverage for medical marihuana under article twenty-five of this
27 chapter or article five of the social services law.

1 § 3369. Protections for the medical use of marihuana. 1. Certified
2 patients, designated caregivers, practitioners, registered organizations
3 and the employees of registered organizations shall not be subject to
4 arrest, prosecution, or penalty in any manner, or denied any right or
5 privilege, including but not limited to civil penalty or disciplinary
6 action by a business or occupational or professional licensing board or
7 bureau, solely for the certified medical use or manufacture of marihua-
8 na, or for any other action or conduct in accordance with this title.

9 2. Non-discrimination. Being a certified patient shall be deemed to be
10 having a "disability" under article fifteen of the executive law (human
11 rights law), section forty-c of the civil rights law, sections 240.00,
12 485.00, and 485.05 of the penal law, and section 200.50 of the criminal
13 procedure law. This subdivision shall not bar the enforcement of a poli-
14 cy prohibiting an employee from performing his or her employment duties
15 while impaired by a controlled substance. This subdivision shall not
16 require any person or entity to do any act that would put the person or
17 entity in violation of federal law or cause it to lose a federal
18 contract or funding.

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

23 4. Certification applications, certification forms, any certified
24 patient information contained within a database, and copies of registry
25 identification cards shall be deemed exempt from public disclosure under
26 sections eighty-seven and eighty-nine of the public officers law.

27 § 3369-a. Regulations. The commissioner shall make regulations to
28 implement this title.

1 § 3369-b. Effective date. Registry identification cards or registered
2 organization registrations shall be issued or become effective no later
3 than eighteen months from signing or until such time as the commissioner
4 and the superintendent of state police certify that this title can be
5 implemented in accordance with public health and safety interests,
6 whichever event comes later.

7 § 3369-c. Suspend; terminate. Based upon the recommendation of the
8 commissioner and/or the superintendent of state police that there is a
9 risk to the public health or safety, the governor may immediately termi-
10 nate all licenses issued to registered organizations.

11 § 3369-d. Pricing. 1. Every sale of medical marihuana shall be at the
12 price determined by the commissioner. Every charge made or demanded for
13 medical marihuana not in accordance with the price determined by the
14 commissioner, is prohibited.

15 2. The commissioner is hereby authorized to set the per dose price of
16 each form of medical marihuana sold by any registered organization. In
17 setting the per dose price of each form of medical marihuana, the
18 commissioner shall consider the fixed and variable costs of producing
19 the form of marihuana and any other factor the commissioner, in his or
20 her discretion, deems relevant to determining the per dose price of each
21 form of medical marihuana.

22 § 3369-e. Severability. If any clause, sentence, paragraph, section or
23 part of this act shall be adjudged by any court of competent jurisdic-
24 tion to be invalid, the judgment shall not affect, impair, or invalidate
25 the remainder thereof, but shall be confined in its operation to the
26 clause, sentence, paragraph, section or part thereof directly involved
27 in the controversy in which the judgment shall have been rendered.

1 § 3. Subdivision 2 of section 3371 of the public health law, as added
2 by section 5 of part A of chapter 447 of the laws of 2012, is amended to
3 read as follows:

4 2. The prescription monitoring program registry may be accessed, under
5 such terms and conditions as are established by the department for
6 purposes of maintaining the security and confidentiality of the informa-
7 tion contained in the registry, by:

8 (a) a practitioner, or a designee authorized by such practitioner
9 pursuant to paragraph (b) of subdivision two of section thirty-three
10 hundred forty-three-a or section thirty-three hundred sixty-one of this
11 article, for the purposes of: (i) informing the practitioner that a
12 patient may be under treatment with a controlled substance by another
13 practitioner; (ii) providing the practitioner with notifications of
14 controlled substance activity as deemed relevant by the department,
15 including but not limited to a notification made available on a monthly
16 or other periodic basis through the registry of controlled substances
17 activity pertaining to his or her patient; (iii) allowing the practi-
18 tioner, through consultation of the prescription monitoring program
19 registry, to review his or her patient's controlled substances history
20 as required by section thirty-three hundred forty-three-a or section
21 thirty-three hundred sixty-one of this article; and (iv) providing to
22 his or her patient, or person authorized pursuant to paragraph (j) of
23 subdivision one of this section, upon request, a copy of such patient's
24 controlled substance history as is available to the practitioner through
25 the prescription monitoring program registry; or

26 (b) a pharmacist, pharmacy intern or other designee authorized by the
27 pharmacist pursuant to paragraph (b) of subdivision three of section
28 thirty-three hundred forty-three-a of this article, for the purposes of:

1 (i) consulting the prescription monitoring program registry to review
2 the controlled substances history of an individual for whom one or more
3 prescriptions for controlled substances or certifications for marihuana
4 is presented to the pharmacist, pursuant to section thirty-three hundred
5 forty-three-a of this article; and (ii) receiving from the department
6 such notifications of controlled substance activity as are made avail-
7 able by the department[.]; or

8 (c) an individual employed by a registered organization for the
9 purpose of consulting the prescription monitoring program registry to
10 review the controlled substances history of an individual for whom one
11 or more certifications for marihuana is presented to that registered
12 organization, pursuant to section thirty-three hundred sixty-four of
13 this article. Unless otherwise authorized by this article, an individual
14 employed by a registered organization will be provided access to the
15 prescription monitoring program in the sole discretion of the commis-
16 sioner.

17 § 4. The tax law is amended by adding a new article 20-B to read as
18 follows:

19 ARTICLE 20-B

20 EXCISE TAX ON MEDICAL MARIHUANA

21 Section 490. Definitions.

22 491. Returns to be secret.

23 § 490. Definitions. 1. (a) All definitions of terms applicable to
24 title five-A of article thirty-three of the public health law shall
25 apply to this article.

26 (b) As used in this section, where not otherwise specifically defined
27 and unless a different meaning is clearly required "gross receipt" means
28 the amount received in or by reason of any sale, conditional or other-

1 wise, of medical marihuana or in or by reason of the furnishing of
2 medical marihuana from the sale of medical marihuana provided by a
3 registered organization to a certified patient or designated caregiver.
4 Gross receipt is expressed in money, whether paid in cash, credit or
5 property of any kind or nature, and shall be determined without any
6 deduction therefrom on account of the cost of the service sold or the
7 cost of materials, labor or services used or other costs, interest or
8 discount paid, or any other expenses whatsoever. "Amount received" for
9 the purpose of the definition of gross receipt, as the term gross
10 receipt is used throughout this article, means the amount charged for
11 the provision of medical marihuana.

12 2. There is hereby imposed an excise tax on the gross receipts from
13 the sale of medical marihuana by a registered organization to a certi-
14 fied patient or designated caregiver, to be paid by the registered
15 organization, at the rate of seven percent. The tax imposed by this
16 article shall be charged against and be paid by the registered organiza-
17 tion and shall not be added as a separate charge or line item on any
18 sales slip, invoice, receipt or other statement or memorandum of the
19 price given to the retail customer.

20 3. The commissioner may make, adopt and amend rules, regulations,
21 procedures and forms necessary for the proper administration of this
22 article.

23 4. Every registered organization that makes sales of medical marihuana
24 subject to the tax imposed by this article shall, on or before the twen-
25 tieth date of each month, file with the commissioner a return on forms
26 to be prescribed by the commissioner, showing its receipts from the
27 retail sale of medical marihuana during the preceding calendar month and
28 the amount of tax due thereon. Such returns shall contain such further

1 information as the commissioner may require. Every registered organiza-
2 tion required to file a return under this section shall, at the time of
3 filing such return, pay to the commissioner the total amount of tax due
4 on its retail sales of medical marihuana for the period covered by such
5 return. If a return is not filed when due, the tax shall be due on the
6 day on which the return is required to be filed.

7 5. Whenever the commissioner shall determine that any moneys received
8 under the provisions of this article were paid in error, he may cause
9 the same to be refunded, with interest, in accordance with such rules
10 and regulations as he may prescribe, except that no interest shall be
11 allowed or paid if the amount thereof would be less than one dollar.
12 Such interest shall be at the overpayment rate set by the commissioner
13 pursuant to subdivision twenty-sixth of section one hundred seventy-one
14 of this chapter, or if no rate is set, at the rate of six percent per
15 annum, from the date when the tax, penalty or interest to be refunded
16 was paid to a date preceding the date of the refund check by not more
17 than thirty days. Provided, however, that for the purposes of this
18 subdivision, any tax paid before the last day prescribed for its payment
19 shall be deemed to have been paid on such last day. Such moneys received
20 under the provisions of this article which the commissioner shall deter-
21 mine were paid in error, may be refunded out of funds in the custody of
22 the comptroller to the credit of such taxes provided an application
23 therefor is filed with the commissioner within two years from the time
24 the erroneous payment was made.

25 6. The provisions of article twenty-seven of this chapter shall apply
26 to the tax imposed by this article in the same manner and with the same
27 force and effect as if the language of such article had been incorpo-
28 rated in full into this section and had expressly referred to the tax

1 imposed by this article, except to the extent that any provision of such
2 article is either inconsistent with a provision of this article or is
3 not relevant to this article.

4 7. All taxes, interest and penalties collected or received by the
5 commissioner under this article shall be deposited and disposed of
6 pursuant to the provisions of section one hundred seventy-one-a of this
7 chapter, provided that an amount equal to one hundred percent collected
8 under this article less any amount determined by the commissioner to be
9 reserved by the comptroller for refunds or reimbursements shall be paid
10 by the comptroller to the credit of the medical marihuana trust fund
11 established by section eighty-nine-h of the state finance law.

12 8. A registered organization that dispenses medical marihuana shall
13 provide to the department information on where the medical marihuana was
14 dispensed and where the medical marihuana was manufactured. A registered
15 organization that obtains marihuana from another registered organization
16 shall obtain from such registered organization information on where the
17 medical marihuana was manufactured.

18 § 491. Returns to be secret. 1. Except in accordance with proper judi-
19 cial order or as in this section or otherwise provided by law, it shall
20 be unlawful for the commissioner, any officer or employee of the depart-
21 ment, or any officer or person who, pursuant to this section, is permit-
22 ted to inspect any return or report or to whom a copy, an abstract or a
23 portion of any return or report is furnished, or to whom any information
24 contained in any return or report is furnished, or any person engaged or
25 retained by such department on an independent contract basis or any
26 person who in any manner may acquire knowledge of the contents of a
27 return or report filed pursuant to this article to divulge or make known
28 in any manner the contents or any other information relating to the

1 business of a distributor, owner or other person contained in any return
2 or report required under this article. The officers charged with the
3 custody of such returns or reports shall not be required to produce any
4 of them or evidence of anything contained in them in any action or
5 proceeding in any court, except on behalf of the state, the state
6 department of health, or the commissioner in an action or proceeding
7 under the provisions of this chapter or on behalf of the state or the
8 commissioner in any other action or proceeding involving the collection
9 of a tax due under this chapter to which the state or the commissioner
10 is a party or a claimant or on behalf of any party to any action or
11 proceeding under the provisions of this article, when the returns or the
12 reports or the facts shown thereby are directly involved in such action
13 or proceeding, or in an action or proceeding relating to the regulation
14 or taxation of medical marihuana on behalf of officers to whom informa-
15 tion shall have been supplied as provided in subdivision two of this
16 section, in any of which events the court may require the production of,
17 and may admit in evidence so much of said returns or reports or of the
18 facts shown thereby as are pertinent to the action or proceeding and no
19 more. Nothing herein shall be construed to prohibit the commissioner, in
20 his or her discretion, from allowing the inspection or delivery of a
21 certified copy of any return or report filed under this article or of
22 any information contained in any such return or report by or to a duly
23 authorized officer or employee of the state department of health; or by
24 or to the attorney general or other legal representatives of the state
25 when an action shall have been recommended or commenced pursuant to this
26 chapter in which such returns or reports or the facts shown thereby are
27 directly involved; or the inspection of the returns or reports required
28 under this article by the comptroller or duly designated officer or

1 employee of the state department of audit and control, for purposes of
2 the audit of a refund of any tax paid by a registered organization or
3 other person under this article; nor to prohibit the delivery to a
4 registered organization, or a duly authorized representative of such
5 registered organization, a certified copy of any return or report filed
6 by such registered organization pursuant to this article, nor to prohib-
7 it the publication of statistics so classified as to prevent the iden-
8 tification of particular returns or reports and the items thereof.

9 2. The commissioner, in his or her discretion and pursuant to such
10 rules and regulations as he or she may adopt, may permit the commission-
11 er of internal revenue of the United States, or the appropriate officers
12 of any other state which regulates or taxes medical marihuana, or the
13 duly authorized representatives of such commissioner or of any such
14 officers, to inspect returns or reports made pursuant to this article,
15 or may furnish to such commissioner or other officers, or duly author-
16 ized representatives, a copy of any such return or report or an abstract
17 of the information therein contained, or any portion thereof, or may
18 supply such commissioner or any such officers or such representatives
19 with information relating to the business of a registered organization
20 making returns or reports hereunder. The commissioner may refuse to
21 supply information pursuant to this subdivision to the commissioner of
22 internal revenue of the United States or to the officers of any other
23 state if the statutes of the United States, or of the state represented
24 by such officers, do not grant substantially similar privileges to the
25 commissioner, but such refusal shall not be mandatory. Information shall
26 not be supplied to the commissioner of internal revenue of the United
27 States or the appropriate officers of any other state which regulates or
28 taxes medical marihuana, or the duly authorized representatives of such

1 commissioner or of any of such officers, unless such commissioner, offi-
2 cer or other representatives shall agree not to divulge or make known in
3 any manner the information so supplied, but such officers may transmit
4 such information to their employees or legal representatives when neces-
5 sary, who in turn shall be subject to the same restrictions as those
6 hereby imposed upon such commissioner, officer or other representatives.

7 3. (a) Any officer or employee of the state who willfully violates the
8 provisions of subdivision one or two of this section shall be dismissed
9 from office and be incapable of holding any public office in this state
10 for a period of five years thereafter.

11 (b) Cross-reference: For criminal penalties, see article thirty-seven
12 of this chapter.

13 § 5. The state finance law is amended by adding a new section 89-h to
14 read as follows:

15 § 89-h. Medical marihuana trust fund. 1. There is hereby established
16 in the joint custody of the state comptroller and the commissioner of
17 taxation and finance a special fund to be known as the "medical marihua-
18 na trust fund."

19 2. The medical marihuana trust fund shall consist of all moneys
20 required to be deposited in the medical marihuana trust fund pursuant to
21 the provisions of section four hundred ninety of the tax law.

22 3. The moneys in the medical marihuana trust fund shall be kept sepa-
23 rate and shall not be commingled with any other moneys in the custody of
24 the commissioner of taxation and finance and the state comptroller.

25 4. The moneys of the medical marihuana trust fund, following appropri-
26 ation by the legislature, shall be allocated upon a certificate of
27 approval of availability by the director of the budget as follows: (a)
28 Twenty-two and five-tenths percent of the monies shall be transferred to

1 the counties in New York state in which the medical marihuana was manu-
2 factured and allocated in proportion to the gross sales originating from
3 medical marihuana manufactured in each such county; (b) twenty-two and
4 five-tenths percent of the moneys shall be transferred to the counties
5 in New York state in which the medical marihuana was dispensed and allo-
6 cated in proportion to the gross sales occurring in each such county;
7 (c) five percent of the monies shall be transferred to the office of
8 alcoholism and substance abuse services, which shall use that revenue
9 for additional drug abuse prevention, counseling and treatment services;
10 and (d) five percent of the revenue received by the department shall be
11 transferred to the division of criminal justice services, which shall
12 use that revenue for a program of discretionary grants to state and
13 local law enforcement agencies that demonstrate a need relating to title
14 five-A of article thirty-three of the public health law; said grants
15 could be used for personnel costs of state and local law enforcement
16 agencies. For purposes of this subdivision, the city of New York shall
17 be deemed to be a county.

18 § 6. Subdivision 1 of section 171-a of the tax law, as amended by
19 section 1 of part R of chapter 60 of the laws of 2004, is amended to
20 read as follows:

21 1. All taxes, interest, penalties and fees collected or received by
22 the commissioner or the commissioner's duly authorized agent under arti-
23 cles nine (except section one hundred eighty-two-a thereof and except as
24 otherwise provided in section two hundred five thereof), nine-A,
25 twelve-A (except as otherwise provided in section two hundred eighty-
26 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
27 section three hundred twelve thereof), eighteen, nineteen, twenty
28 (except as otherwise provided in section four hundred eighty-two there-

1 of), twenty-B twenty-one, twenty-two, twenty-six, twenty-six-B, twenty-
2 eight (except as otherwise provided in section eleven hundred two or
3 eleven hundred three thereof), twenty-eight-A, thirty-one (except as
4 otherwise provided in section fourteen hundred twenty-one thereof),
5 thirty-two, thirty-three and thirty-three-A of this chapter shall be
6 deposited daily in one account with such responsible banks, banking
7 houses or trust companies as may be designated by the comptroller, to
8 the credit of the comptroller. Such an account may be established in one
9 or more of such depositories. Such deposits shall be kept separate and
10 apart from all other money in the possession of the comptroller. The
11 comptroller shall require adequate security from all such depositories.
12 Of the total revenue collected or received under such articles of this
13 chapter, the comptroller shall retain in the comptroller's hands such
14 amount as the commissioner may determine to be necessary for refunds or
15 reimbursements under such articles of this chapter and article ten ther-
16 eof out of which amount the comptroller shall pay any refunds or
17 reimbursements to which taxpayers shall be entitled under the provisions
18 of such articles of this chapter and article ten thereof. The commis-
19 sioner and the comptroller shall maintain a system of accounts showing
20 the amount of revenue collected or received from each of the taxes
21 imposed by such articles. The comptroller, after reserving the amount to
22 pay such refunds or reimbursements, shall, on or before the tenth day of
23 each month, pay into the state treasury to the credit of the general
24 fund all revenue deposited under this section during the preceding
25 calendar month and remaining to the comptroller's credit on the last day
26 of such preceding month, (i) except that the comptroller shall pay to
27 the state department of social services that amount of overpayments of
28 tax imposed by article twenty-two of this chapter and the interest on

1 such amount which is certified to the comptroller by the commissioner as
2 the amount to be credited against past-due support pursuant to subdivi-
3 sion six of section one hundred seventy-one-c of this chapter, (ii) and
4 except that the comptroller shall pay to the New York state higher
5 education services corporation and the state university of New York or
6 the city university of New York respectively that amount of overpayments
7 of tax imposed by article twenty-two of this chapter and the interest on
8 such amount which is certified to the comptroller by the commissioner as
9 the amount to be credited against the amount of defaults in repayment of
10 guaranteed student loans and state university loans or city university
11 loans pursuant to subdivision five of section one hundred seventy-one-d
12 and subdivision six of section one hundred seventy-one-e of this chap-
13 ter, (iii) and except further that, notwithstanding any law, the comp-
14 troller shall credit to the revenue arrearage account, pursuant to
15 section ninety-one-a of the state finance law, that amount of overpay-
16 ment of tax imposed by article nine, nine-A, twenty-two, thirty, thir-
17 ty-A, thirty-B, thirty-two or thirty-three of this chapter, and any
18 interest thereon, which is certified to the comptroller by the commis-
19 sioner as the amount to be credited against a past-due legally enforcea-
20 ble debt owed to a state agency pursuant to paragraph (a) of subdivision
21 six of section one hundred seventy-one-f of this article, provided,
22 however, he shall credit to the special offset fiduciary account, pursu-
23 ant to section ninety-one-c of the state finance law, any such amount
24 creditable as a liability as set forth in paragraph (b) of subdivision
25 six of section one hundred seventy-one-f of this article, (iv) and
26 except further that the comptroller shall pay to the city of New York
27 that amount of overpayment of tax imposed by article nine, nine-A, twen-
28 ty-two, thirty, thirty-A, thirty-B, thirty-two, or thirty-three of this

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

25 § 7. Subdivision 1 of section 171-a of the tax law, as amended by
26 section 54 of part A of chapter 59 of the laws of 2014, is amended to
27 read as follows:

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

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

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

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

4 § 7-a. Section 853 of the general business law is amended by adding a
5 new subdivision 3 to read as follows:

6 3. This article shall not apply to any sale, furnishing or possession
7 which is for a lawful purpose under title five-A of article thirty-three
8 of the public health law.

9 § 8. Section 221.00 of the penal law, as added by chapter 360 of the
10 laws of 1977, is amended to read as follows:

11 § 221.00 Marihuana; definitions.

12 Unless the context in which they are used clearly otherwise requires,
13 the terms occurring in this article shall have the same meaning ascribed
14 to them in article two hundred twenty of this chapter. Any act that is
15 lawful under title five-A of article thirty-three of the public health
16 law is not a violation of this article.

17 § 9. The penal law is amended by adding a new article 179 to read as
18 follows:

19 ARTICLE 179

20 CRIMINAL DIVERSION OF MEDICAL MARIHUANA

21 Section 179.00 Criminal diversion of medical marihuana; definitions.

22 179.05 Criminal diversion of medical marihuana; limitations.

23 179.10 Criminal diversion of medical marihuana in the first
24 degree.

25 179.11 Criminal diversion of medical marihuana in the second
26 degree.

27 179.15 Criminal retention of medical marihuana.

1 § 179.00 Criminal diversion of medical marihuana; definitions.

2 The following definitions are applicable to this article:

3 1. "Medical marihuana" means medical marihuana as defined in subdivi-
4 sion eight of section thirty-three hundred sixty of the public health
5 law.

6 2. "Certification" means a certification, made under section thirty-
7 three hundred sixty-one of the public health law.

8 § 179.05 Criminal diversion of medical marihuana; limitations.

9 The provisions of this article shall not apply to:

10 1. a practitioner authorized to issue a certification who acted in
11 good faith in the lawful course of his or her profession; or

12 2. a registered organization as that term is defined in subdivision
13 nine of section thirty-three hundred sixty of the public health law who
14 acted in good faith in the lawful course of the practice of pharmacy; or

15 3. a person who acted in good faith seeking treatment for medical
16 condition or assisting another person to obtain treatment for a medical
17 condition.

18 § 179.10 Criminal diversion of medical marihuana in the first degree.

19 A person is guilty of criminal diversion of medical marihuana in the
20 first degree when he or she is a practitioner, as that term is defined
21 in subdivision twelve of section thirty-three hundred sixty of the
22 public health law, who issues a certification with knowledge of reason-
23 able grounds to know that (i) the recipient has no medical need for it,
24 or (ii) it is for a purpose other than to treat a serious condition as
25 defined in subdivision seven of section thirty-three hundred sixty of
26 the public health law.

27 Criminal diversion of medical marihuana in the first degree is a class
28 E felony.

1 § 179.11 Criminal diversion of medical marihuana in the second degree.

2 A person is guilty of criminal diversion of medical marihuana in the
3 second degree when he or she sells, trades, delivers, or otherwise
4 provides medical marihuana to another with knowledge or reasonable
5 grounds to know that the recipient is not registered under title five-A
6 of article thirty-three of the public health law.

7 Criminal diversion of medical marihuana in the second degree is a
8 class B misdemeanor.

9 § 179.15 Criminal retention of medical marihuana.

10 A person is guilty of criminal retention of medical marihuana when,
11 being a certified patient or designated caregiver, as those terms are
12 defined in subdivisions three and five of section thirty-three hundred
13 sixty of the public health law, respectively, he or she knowingly
14 obtains, possesses, stores or maintains an amount of marihuana in excess
15 of the amount he or she is authorized to possess under the provisions of
16 title five-A of article thirty-three of the public health law.

17 Criminal retention of medical marihuana is a class A misdemeanor.

18 § 10. The opening paragraph of subdivision 1 of section 216.00 of the
19 criminal procedure law, as added by section 4 of part AAA of chapter 56
20 of the laws of 2009, is amended to read as follows:

21 "Eligible defendant" means any person who stands charged in an indict-
22 ment or a superior court information with a class B, C, D or E felony
23 offense defined in article one hundred seventy-nine, two hundred twenty
24 or two hundred twenty-one of the penal law or any other specified
25 offense as defined in subdivision four of section 410.91 of this chap-
26 ter, provided, however, a defendant is not an "eligible defendant" if he
27 or she:

1 § 11. Subdivision 5 of section 410.91 of the criminal procedure law,
2 as amended by section 8 of part AAA of chapter 56 of the laws of 2009,
3 is amended to read as follows:

4 5. For the purposes of this section, a "specified offense" is an
5 offense defined by any of the following provisions of the penal law:
6 burglary in the third degree as defined in section 140.20, criminal
7 mischief in the third degree as defined in section 145.05, criminal
8 mischief in the second degree as defined in section 145.10, grand larceny
9 in the fourth degree as defined in subdivision one, two, three, four,
10 five, six, eight, nine or ten of section 155.30, grand larceny in the
11 third degree as defined in section 155.35 (except where the property
12 consists of one or more firearms, rifles or shotguns), unauthorized use
13 of a vehicle in the second degree as defined in section 165.06, criminal
14 possession of stolen property in the fourth degree as defined in subdivi-
15 sion one, two, three, five or six of section 165.45, criminal
16 possession of stolen property in the third degree as defined in section
17 165.50 (except where the property consists of one or more firearms,
18 rifles or shotguns), forgery in the second degree as defined in section
19 170.10, criminal possession of a forged instrument in the second degree
20 as defined in section 170.25, unlawfully using slugs in the first degree
21 as defined in section 170.60, criminal diversion of medical marihuana in
22 the first degree as defined in section 179.10 or an attempt to commit
23 any of the aforementioned offenses if such attempt constitutes a felony
24 offense; or a class B felony offense defined in article two hundred
25 twenty where a sentence is imposed pursuant to paragraph (a) of subdivi-
26 sion two of section 70.70 of the penal law; or any class C, class D or
27 class E controlled substance or marihuana felony offense as defined in
28 article two hundred twenty or two hundred twenty-one.

1 § 12. This act shall take effect immediately and shall expire and be
2 deemed repealed seven years after such date; provided that the amend-
3 ments to section 171-a of the tax law made by section seven of this act
4 shall take effect on the same date and in the same manner as section 54
5 of part A of chapter 59 of the laws of 2014 takes effect; and provided,
6 further, that the amendments to subdivision 5 of section 410.91 of the
7 criminal procedure law made by section eleven of this act shall not
8 affect the expiration and repeal of such section and shall expire and be
9 deemed repealed therewith.

