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

AN ACT

to amend the tax law, the cannabis law, the penal law and the criminal procedure law, in relation to making technical corrections to tax on adult-use cannabis products

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

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: in Assembly 2 copies of memorandum in support, in Senate 4 copies of memorandum in support (single house); or 4 signed copies of bill and 6 copies of memorandum in support (uni-bill).
Section 1. Subdivisions (a) and (g) of section 492 of the tax law, as added by chapter 92 of the laws of 2021, are amended and a new subdivision (l) is added to read as follows:

(a) "Adult-use cannabis product" [or "adult-use cannabis"] has the same meaning as the term is defined in section three of the cannabis law whether or not such adult-use cannabis product is for use by a cannabis consumer as such a consumer is defined in subdivision six of section three of the cannabis law. For purposes of this article, under no circumstances shall adult-use cannabis product include medical cannabis or cannabinoid hemp product as defined in section three of the cannabis law.

(g) "Illicit cannabis" means and includes [cannabis flower, concentrated cannabis, cannabis edible product and cannabis plant] any adult-use cannabis product or purported cannabis, including concentrated cannabis and cannabis edible products on which any tax required to have been paid under this chapter has not been paid. Illicit cannabis shall not include any cannabis lawfully possessed in accordance with the cannabis law or penal law. The failure of any person who sells adult-use cannabis products or purported cannabis at retail (except a person who possesses a valid registered organization adult-use cultivator processor distributor retail dispensary license or microbusiness license issued by the office of cannabis management) to produce and exhibit to the commissioner or the commissioner's authorized representative upon demand, an invoice by a distributor with a valid registration under this article for adult-use cannabis product or purported cannabis in such person's possession shall be presumptive evidence that the tax thereon has not been paid.
(1) "Purported cannabis" means any product labeled as, advertised as, or held out to be, cannabis or a substance possessing the properties of cannabis or THC, as defined in section three of the cannabis law.

§ 2. Subdivisions (b) and (c) of section 493 of the tax law, as added by chapter 92 of the laws of 2021, are amended to read as follows:

(b) In addition to any other tax imposed by this chapter or other law, there is hereby imposed a tax of nine percent of the amount charged for the sale or transfer of adult-use cannabis products or purported cannabis to a retail customer by a person who sells adult-use cannabis products at retail. This tax is imposed on the person who sells adult-use cannabis at retail and shall accrue at the time of such sale or transfer.

(c) In addition to the taxes imposed by subdivisions (a) and (b) of this section, there is hereby imposed a tax on the sale or transfer of adult-use cannabis products or purported cannabis to a retail customer by a person who sells adult-use cannabis products at retail at the rate of four percent of the amount charged by such person for such adult-use cannabis product, which tax shall accrue at the time of such sale or transfer. The tax imposed by this subdivision is imposed on a person who sells adult-use cannabis products at retail, and shall be paid to the commissioner in trust for and on account of a city having a population of a million or more, and counties (other than counties wholly within such a city), towns, villages, and cities with a population of less than a million in which a retail dispensary is located.

§ 3. Section 494 of the tax law, as added by chapter 92 of the laws of 2021, is amended to read as follows:

§ 494. Registration and renewal. (a) [(i)] (1) Every distributor on whom tax is imposed under this article and every person who sells
adult-use cannabis products at retail must file with the commissioner a properly completed application for a certificate of registration and obtain such certificate before engaging in business. An application for a certificate of registration must be submitted electronically, on a form prescribed by the commissioner, and must be accompanied by a non-refundable application fee of six hundred dollars. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon such person ceasing to do business as specified in such certificate, or in the event that such business never commenced.

[(ii)] (2) Provided, however, that the commissioner shall refund or credit an application fee paid with respect to the registration of an adult-use cannabis business in this state if, prior to the beginning of the period with respect to which such registration relates, the certificate of registration described in [subparagraph (i)] paragraph one of this subdivision is returned to the department or, if such certificate has been destroyed, the operator of such business satisfactorily accounts to the commissioner for the missing certificate, but such business may not sell adult-use cannabis products in this state during such period, unless it is re-registered. Such refund or credit shall be deemed a refund of tax paid in error, provided, however, no interest shall be allowed or paid on any such refund.

(b) (1) The commissioner shall refuse to issue a certificate of registration to any applicant and shall revoke the certificate of registration of any such person who does not possess a valid license from the office of cannabis management.

(2) The commissioner may refuse to issue a certificate of registration to any applicant where such applicant:
(i) has a past-due liability as that term is defined in section one hundred seventy-one-v of this chapter;

(ii) has had a certificate of registration under this article, a license from the office of cannabis management, or any license or registration provided for in this chapter revoked or suspended where such revocation or suspension was in effect on the date the application was filed or ended within one year from the date on which such application was filed;

(iii) has been convicted of a crime provided for in this chapter within one year from the date on which such application was filed or the certificate was issued, as applicable;

(iv) willfully fails to file a report or return required by this article;

(v) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false; [or]

(vi) willfully fails to collect or truthfully account for or pay over any tax imposed by this article[.];

(vii) has been determined to have possessed illicit cannabis within one year from the date on which such application was filed;

(viii) is a distributor that has been determined to have sold adult-use cannabis products or purported cannabis to any person who sells adult-use cannabis products or purported cannabis at retail and who is not registered under this section, or whose registration has been suspended or revoked; or

(ix) has a place of business at the same premises as that of a distributor upon whom tax is imposed under this article, or person who sells adult-use cannabis products or purported cannabis at retail, whose
registration has been revoked and where such revocation is still in effect, unless the applicant provides the commissioner with adequate documentation demonstrating that such applicant acquired the premises or business through an arm's length transaction as defined in paragraph (e) of subdivision one of section four hundred eighty-a of this chapter and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original registrant to avoid the effect of the previous revocation for the same premises.

(3) The commissioner may revoke the certificate of registration issued to any person who:

(i) has had any license or registration provided for in this chapter revoked or suspended;

(ii) has been convicted of a crime provided for in this chapter where such conviction occurred not more than one year prior to the date of revocation;

(iii) willfully fails to file a report or return required by this article;

(iv) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false;

(v) willfully fails to collect or truthfully account for or pay over any tax imposed by this article; or

(vi) is a distributor that has been determined to have sold adult-use cannabis products or purported cannabis to any person who sells adult-use cannabis products or purported cannabis at retail and who is not registered under this section, or whose registration has been suspended or revoked.
[(2)] (4) In addition to the grounds for revocation in [(paragraph (1) of) this subdivision, where a person who holds a certificate of registration is determined to have possessed or sold illicit cannabis, such certificate of registration shall be revoked:

[(1) such registration may be revoked] (i) for a period of [up to] one year for the first such possession or sale by such person;

[(2)] (ii) for a period of three years for a second such possession or sale within a period of five years by such person[, the registration of such person may be revoked for a period of up to three years]; and

[(3)] (iii) for a period of five years for a third such possession or sale within a period of [up to] five years by such person[, the registration of such person may be revoked for a period of five years]. A certificate of registration [may] shall be revoked pursuant to this paragraph immediately upon such person's receipt of written notice of revocation from the commissioner.

A person who is notified of a revocation of their certificate of registration pursuant to this paragraph shall have the right to have the revocation reviewed by the commissioner or their designee by contacting the department at a telephone number or an address to be disclosed in the notice of revocation within ten days of such person's receipt of such notification. Such person may present written evidence or argument in support of their defense to the revocation or may appear at a scheduled conference with the commissioner or their designee to present oral arguments and written and oral evidence in support of such defense. The commissioner or their designee is authorized to delay the effective date of the revocation to enable such person to present further evidence or arguments in connection with the revocation. The commissioner or their designee shall cancel the revocation of the certificate of registration
if the commissioner or their designee is not satisfied by a preponderance of the evidence that a basis for revocation pursuant to this paragraph exists. An order of revocation of a certificate of registration under this paragraph shall not be reviewable by the division of tax appeals but may be reviewed pursuant to article seventy-eight of the civil practice law and rules by a proceeding commenced in the supreme court within four months of the revocation petitioning that the order of revocation be enjoined or set aside. Such proceeding shall be instituted in the county where the commissioner has their principal office. Upon the filing of such petition the court shall have jurisdiction to set aside such order of revocation, in whole or in part, or to dismiss the petition. The jurisdiction of the supreme court shall be exclusive and its order dismissing the petition or enjoining or setting aside such order, in whole or in part, shall be final, subject to review by the appellate division of the supreme court and the court of appeals in the same manner and form and with the same effect as provided by law for appeals from a judgment in a special proceeding. All such proceedings shall be heard and determined by the court and by any appellate court as expeditiously as possible and with lawful precedence over other civil matters. All such proceedings for review shall be heard on the petition, transcript and other papers, and on appeal shall be heard on the record, without requirement of printing.

(c) Where a person that does not possess a certificate of registration under this section has been determined to have possessed or sold any adult-use cannabis product, illicit cannabis, or purported cannabis:

(1) The commissioner shall revoke a certificate of authority issued to such person pursuant to section eleven hundred thirty-four of this chapter. Such certificate of authority shall be revoked:
(i) for a period of one year for the first such possession or sale by such person;

(ii) for a period of three years for a second such possession or sale within a period of five years by such person; and

(iii) for a period of five years for a third such possession or sale within a period of five years by such person.

(2) The commissioner may refuse to issue a certificate of authority under section eleven hundred thirty-four of this chapter to a distributor upon whom tax is imposed under this article, or a person who sells adult-use cannabis products or purported cannabis at retail, who has a place of business at the same premises as that of a person whose certificate of authority has been revoked pursuant to paragraph one of this subdivision and where such revocation is still in effect, unless the applicant provides the commissioner with adequate documentation demonstrating that such applicant acquired the premises or business through an arm's length transaction as defined in paragraph (e) of subdivision one of section four hundred eighty-a of this chapter and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original registrant to avoid the effect of the previous revocation for the same premises.

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

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

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

[(f) (g) Any person who is required to obtain a certificate of regis-
tration under subdivision (a) of this section who possesses adult-use
cannabis products or purported cannabis without such certificate shall
be subject to a penalty of [five hundred dollars for each month or part
thereof during which adult-use cannabis products are possessed without
such certificate, not to exceed ten thousand dollars in the aggregate]
not less than five thousand dollars for a first violation and not less
than ten thousand dollars for a second or subsequent violation within
three years following a prior violation. Any such adult-use cannabis
product or purported cannabis shall be subject to immediate forfeiture
to, and seizure by, the commissioner or their duly authorized represen-
tatives, or the duly authorized representatives of the office of canna-
bis management.

(h) No distributor on whom tax is imposed under this article shall
sell any adult-use cannabis product or purported cannabis to any person
who sells adult-use cannabis products at retail and who is not regis-
tered under this section, or whose registration has been suspended or
revoked.
§ 4. Section 496-c of the tax law, as added by chapter 92 of the laws of 2021, is amended to read as follows:

§ 496-c. [Illicit cannabis penalty] Additional penalties. (a) In addition to any other civil or criminal penalties that may apply, any person knowingly in possession of or knowingly having control over any type of illicit cannabis, as defined in section four hundred ninety-two of this article, after notice and an opportunity for a hearing, shall be liable for a civil penalty for each possession or instance of control of a particular type of illicit cannabis of [not less than two hundred dollars per ounce of illicit cannabis flower, five dollars per milligram of the total weight of any illicit cannabis edible product, fifty dollars per gram of the total weight of any product containing illicit cannabis concentrate, and five hundred dollars per illicit cannabis plant, but not to exceed four hundred dollars per ounce of illicit cannabis flower, ten dollars per milligram of the total weight of any illicit cannabis edible product, one hundred dollars per gram of the total weight of any product containing illicit cannabis concentrate, and one thousand dollars per illicit cannabis plant] up to one hundred fifty thousand dollars for a first violation, and for a second and subsequent violation within three years following a prior violation shall be liable for a civil penalty for each possession or instance of control of a particular type of illicit cannabis of [not less than four hundred dollars per ounce of illicit cannabis flower, ten dollars per milligram of the total weight of any illicit cannabis edible product, one hundred dollars per gram of the total weight of any product containing illicit cannabis concentrate, and one thousand dollars per illicit cannabis plant] but not to exceed five hundred dollars per ounce of illicit cannabis flower, twenty dollars per milligram of the total weight of any
illicit cannabis edible product, two hundred dollars per gram of the
total weight of any product containing illicit cannabis concentrate, and
two thousand dollars per illicit cannabis plant] up to two hundred thou-
sand dollars.

(b) In addition to any other penalty authorized by this chapter or any
other law, any person knowingly in possession of or knowingly having
control over more than three pounds but less than twelve pounds of
illicit cannabis or more than one pound but less than four pounds of
illicit concentrated cannabis or illicit cannabis edible product, after
notice and an opportunity for a hearing, shall be liable for a civil
penalty for each such possession or instance of control of not less than
ten thousand dollars for a first violation and not less than twenty
thousand dollars for a second or subsequent violation within three years
following a prior violation.

(c) In addition to any other penalty authorized by this chapter or any
other law, any person knowingly in possession of or knowingly having
control over twelve or more pounds of illicit cannabis or four or more
pounds of illicit concentrated cannabis or illicit cannabis edible prod-
uct, after notice and an opportunity for a hearing, shall be liable for
a civil penalty for each such possession or instance of control of not
less than twenty-five thousand dollars for a first violation and not
less than fifty thousand dollars for a second or subsequent violation
within three years following a prior violation.

(d) Any distributor on whom tax is imposed under this article that
sells any adult-use cannabis product or purported cannabis to any person
who sells at retail adult-use cannabis products who is not registered
under section four hundred ninety-four of this article, or whose regis-
tration has been suspended or revoked, shall be liable for a civil
penalty of not less than twenty-five thousand dollars for a first violation and not less than fifty thousand dollars for a second or subsequent violation within three years following a prior violation.

(e) No enforcement action taken under this section shall be construed to limit any other criminal or civil liability of anyone in possession of illicit cannabis or purported cannabis.

[(c)] (f) The penalties imposed by this section shall not apply to natural persons lawfully in possession of [less than two ounces of] adult-use cannabis or [ten grams of] concentrated cannabis [in accordance with the cannabis law or penal law] for personal use as provided in article two hundred twenty-two of the penal law.

§ 5. The tax law is amended by adding a new section 496-d to read as follows:

§ 496-d. Enforcement. For purposes of the efficient administration of the taxes imposed by this article, it is the intent of the legislature that the cultivation, processing, distribution and sale of adult-use cannabis products be deemed a heavily regulated industry subject to supervision by the commissioner and the office of cannabis management. The commissioner or the commissioner's duly authorized representatives are hereby authorized:

(a) To conduct regulatory inspections during normal business hours in the same manner as a regulatory inspection pursuant to article twenty of this chapter of any place of business or vehicle where adult-use cannabis products or purported cannabis are distributed, placed, stored, sold or offered for sale.

(b) To examine any adult-use cannabis products or purported cannabis and the books, papers, invoices and other records of any place of business or vehicle where adult-use cannabis products or purported cannabis
are distributed, placed, stored, sold or offered for sale. Any person in
possession, control or occupancy of any such business or vehicle is
hereby directed and required upon demand to give to the commissioner or
the commissioner's duly authorized representatives or the duly author-
ized representatives of the office of cannabis management, the means,
facilities, and opportunity for such examinations.

(c) (1) If any person registered under section four hundred ninety-
four of this article, or their employees or agents, refuses to give the
commissioner, or the commissioner's duly authorized representatives, the
means, facilities and opportunity for the inspections and examinations
required by this section:

(i) their registration to distribute or sell adult-use cannabis
products at retail shall be revoked for a period of one year;

(ii) for a second such failure within a period of three years, their
registration shall be permanently revoked.

(2) If any person required to be registered under such section four
hundred ninety-four, or its employees or agents, refuses to give the
commissioner, or the commissioner's duly authorized representatives, the
means, facilities and opportunity for such inspections and examinations
under this section but does not possess a valid registration, either
because they failed to obtain a registration or their registration is
suspended or revoked at the time of such refusal, such person shall be
subject to a penalty of up to one hundred fifty thousand dollars for a
first refusal and up to two hundred thousand dollars for a second
refusal within three years.

(d) The commissioner or the commissioner's duly authorized represen-
tatives shall seize any illicit cannabis or purported cannabis found in
any place of business or vehicle where adult-use cannabis products or
purported cannabis are distributed, placed, stored, sold or offered for
sale by any person who does not possess a certificate of registration as
described in section four hundred ninety-four of this chapter.

(e) All illicit cannabis or purported cannabis seized pursuant to the
authority of this chapter or any other law of this state shall be turned
over to the office of cannabis management or their authorized represen-
tative. Such seized illicit cannabis or purported cannabis shall, after
notice and an opportunity for a hearing, be forfeited to the state. If
the office of cannabis management determines the illicit cannabis or
purported cannabis cannot be used for law enforcement purposes, it may,
within a reasonable time after the forfeiture of such illicit cannabis
or purported cannabis, upon publication in the state registry, destroy
such forfeited illicit cannabis or purported cannabis.

§ 6. The tax law is amended by adding a new section 1823 to read as
follows:

§ 1823. Adult-use cannabis products taxes. (a) Any person who willful-
ly attempts in any manner to evade or defeat the taxes imposed by arti-
cle twenty-C of this chapter or payment thereof shall be guilty of a
class A misdemeanor for the first such offense and a class E felony for
any subsequent such offense within three years of the first such
offense.

(b) Any person (except a person who possesses a valid registered
organization adult-use cultivator processor distributor retail dispen-
sary license or microbusiness license issued by the office of cannabis
management) who possesses or transports for the purpose of sale any
adult-use cannabis product or purported cannabis that was not acquired
from a distributor, as defined in section three of the cannabis law,
that is duly licensed under section seventy-one of the cannabis law,
consistent with the terms of such license, shall be guilty of a class A misdemeanor for the first such offense and a class E felony for any subsequent such offense within three years of the first such offense.

(c) Any person who possesses or transports for the purpose of sale any adult-use cannabis product or purported cannabis, or who sells or offers for sale any adult-use cannabis product or purported cannabis in violation of the provisions of article twenty-C of this chapter shall be guilty of a class A misdemeanor for the first such offense and a class E felony for any subsequent such offense within three years of the first such offense.

(d) Any person who has in such person's custody or possession or under such person's control for sale, or who sells at wholesale or retail or delivers to consumers, any adult-use cannabis product within the state without obtaining a certificate of registration pursuant to section four hundred ninety-four of this chapter, or after such certificate of registration has been revoked or suspended, shall be guilty of a class A misdemeanor for the first such offense and a class E felony for any subsequent such offense within three years of the first such offense.

(e) Any person knowingly in possession of or knowingly having control over more than three pounds but less than twelve pounds of illicit cannabis or purported cannabis or more than one pound but less than four pounds of illicit concentrated cannabis or illicit cannabis edible products, shall be guilty of a class A misdemeanor for the first such offense and a class E felony for any subsequent such offense within three years of the first such offense.

(f) Any person knowingly in possession of or knowingly having control over twelve or more pounds of illicit cannabis or purported cannabis or four or more pounds of illicit concentrated cannabis or illicit cannabis
edible products, shall be guilty of a class E felony for the first such
offense and a class D felony for any subsequent such offense within
three years of the first such offense.

(g) The definitions in section four hundred ninety-two of this chapter
shall apply to this section.

§ 7. Section 3 of the cannabis law is amended by adding three new
subdivisions 40-a, 42-a, and 47-a to read as follows:

40-a. "Person" means an individual, institution, corporation, govern-
ment or governmental subdivision or agency, business trust, estate,
trust, partnership or association, or any other entity.

42-a. "Purported cannabis" means any product labeled as, advertised
as, or held out to be, cannabis or a substance possessing the proper-
ties of cannabis or THC.

47-a. For purposes of sections one hundred twenty-five, one hundred
thirty-two, one hundred thirty-three, and one hundred thirty-six of this
chapter "sell" or "sale" or "sold" means any sale, transfer of title or
possession or both, exchange or barter, rent, lease, or license to use
or consume, conditional, or otherwise, in any manner or by any means
whatsoever for a consideration or any agreement therefor, or dispose of
for compensation, including through a membership program or through some
other indirect means.

§ 8. Subdivisions 1, 2, 3 and 4 of section 16 of the cannabis law are
amended and a new subdivision 2-a is added to read as follows:

1. Any person who violates, disobeys or disregards any term or
provision of this chapter or of any lawful notice, order or regulation
pursuant thereto [for which a civil or criminal penalty is not otherwise
expressly prescribed by law], shall be liable to the people of the state
for a civil penalty of not to exceed [five]: (a) twenty-five thousand
dollars for every such violation if the person has obtained the appropriate registration, license or permit required by this chapter; and (b) ten thousand dollars per day if the person has not obtained the appropriate registration, license or permit required by this chapter.

2. [The] Any penalty provided for in subdivision one of this section may be recovered by an action or proceeding in a court of competent jurisdiction brought by or at the request of the board [in any court of competent jurisdiction] or, with regard to any penalty against a person that has not obtained the appropriate registration, license, or permit required by this chapter, by or at the request of the office of cannabis management.

2-a. For purposes of the efficient administration of the requirements imposed by this article, it is the intent of the legislature that the cultivation, processing, distribution and sale of adult-use cannabis products be deemed a heavily regulated industry subject to supervision by the office of cannabis management. The duly authorized representatives of the office of cannabis management are hereby authorized to conduct investigations and examinations, during business hours, of any place of business or vehicle where adult-use cannabis products are cultivated, processed, distributed, placed, stored, sold, or offered for sale, whether or not the person in possession, control or occupancy of such place of business or vehicle is registered, licensed, or permitted under the relevant article of this chapter, and to seize any illicit cannabis found in any such place of business or vehicle. If any person refuses to permit the duly authorized representatives of the office of cannabis management to conduct such an investigation or examination, the office of cannabis management or the attorney general, at the request of the office of cannabis management, may apply for a warrant to conduct a
search of such place of business or vehicle and seize any illicit canna-

bis. The board shall promulgate regulations specifying the procedure for

obtaining a warrant pursuant to this subdivision.

3. Such civil penalty may be released or compromised by the board

before the matter has been referred to the attorney general, and where

such matter has been referred to the attorney general, any such penalty

may be released or compromised and any action or proceeding commenced to

recover the same may be settled and discontinued by the attorney general

with the consent of the board.

4. It shall be the duty of the attorney general upon the request of

the board to bring an action [for an injunction] or proceeding to obtain

damages, civil penalties, disgorgement, costs, and injunctive and equi-
table relief against any person who violates, disobeys or disregards any

term or provision of this chapter or of any lawful notice, order or

regulation pursuant thereto; provided, however, that the executive

director shall furnish the attorney general with such material, eviden-
tiary matter or proof as may be requested by the attorney general for

the prosecution of such an action or proceeding.

§ 9. The cannabis law is amended by adding a new section 16-a to read

as follows:

§ 16-a. Emergency relief. Following service of a notice of violation

and order requiring immediate cessation of unlicensed activity under

this chapter, the office of cannabis management, or the attorney gener-
al, at the request of and on behalf of the office of cannabis manage-
ment, may bring and maintain a civil proceeding in the supreme court of

the county in which the building or premises is located to permanently

enjoin any activity in violation of subdivision one of section one

hundred twenty-five of this chapter or section 222.46 of the penal law
as a public nuisance that presents a danger to the public health, safety, and welfare, and the person or persons conducting or maintaining such unlicensed activity, in accordance with the following procedures:

1. Proceeding for permanent injunction. (a) To the extent known, the owner, lessor, and lessee of a building or premises wherein the unlicensed activity is being conducted, maintained, or permitted shall be made defendants in the proceeding. The venue of such proceeding shall be in the county where the unlicensed activity is being conducted, maintained, or permitted. The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this section.

   (b) The proceeding shall name as defendants the building or premises wherein the public nuisance is being conducted, maintained, or permitted, by describing it by tax lot and street address and at least one of the owners of some part of or interest in the property.

   (c) In rem jurisdiction shall be complete over the building or premises wherein the unlicensed activity is being conducted, maintained, or permitted by affixing the notice of petition to the door of the building or premises and by mailing the notice of petition by certified or registered mail, return receipt requested, to one of the owners of some part of or interest in the property. Proof of service shall be filed within two days thereafter with the clerk of the court designated in the notice of petition. In any county where e-filing is unavailable, proof of service may be mailed to the clerk. Service shall be complete upon such filing or mailing.

   (d) Defendants, other than the building or premises wherein the unlicensed activity is being conducted, maintained, or permitted, shall be served with the notice of petition as provided in the civil practice law
and rules or pursuant to court order. No more than fifteen days prior to
such service, the office of cannabis management, or the attorney gener-
al, at the request of and on behalf of the office of cannabis manage-
ment, shall verify the ongoing occupancy of any natural person who is a
tenant of record and alleged to have caused or permitted the unlicensed
activity in the building or premises wherein the unlicensed activity is
alleged to have been conducted, maintained, or permitted.

(e) With respect to any proceeding commenced or to be commenced pursu-
ant to this section by the office of cannabis management, or the attor-
ney general, at the request of and on behalf of the office of cannabis
management, may file a notice of pendency pursuant to the provisions of
article sixty-five of the civil practice law and rules.

(f) The person in whose name the real estate affected by the proceed-
ing is recorded in the office of the city register or the county clerk,
as the case may be, shall be presumed to be the owner thereof. Upon
being served in a proceeding under this section, such owner shall, to
the extent known, provide to the office of cannabis management, within
three days, the names of any other owners, lessors and lessees of the
building or premises that is the subject of the proceeding. Thereafter,
such owners, lessors and lessees may be made parties to the proceeding.

(g) Whenever there is evidence that a person was the manager, opera-
tor, supervisor or, in any other way, in charge of the premises, at the
time the unlicensed activity was being conducted, maintained, or permit-
ted, such evidence shall be presumptive that he or she was an agent or
employee of the owner or lessee of the building or premises.

(h) If, a finding is made that the defendant has conducted, main-
tained, or permitted a violation of subdivision one of section one
hundred twenty-five of this chapter or section 222.46 of the penal law,
a penalty, to be included in the judgment, may be awarded in an amount
not to exceed ten thousand dollars for each day it is found that the
defendant intentionally conducted, maintained or permitted the unli-
censed activity. Upon recovery, such penalty shall be paid to the
office of cannabis management.

2. Preliminary injunction. (a) Pending a proceeding for a permanent
injunction pursuant to this section the court may grant a preliminary
injunction enjoining the unlicensed activity in violation of subdivision
one of section one hundred twenty-five of this chapter or section 222.46
of the penal law and the person or persons conducting, maintaining, or
permitting the unlicensed activity from further conducting, maintaining,
or permitting the unlicensed activity, where the public health, safety
or welfare immediately requires the granting of such injunction. A
temporary closing order may be granted pending a hearing for a prelimi-
nary injunction where it appears by clear and convincing evidence that
unlicensed activity in violation of subdivision one of section one
hundred twenty-five of this chapter or section 222.46 of the penal law
within the scope of this chapter is being conducted, maintained, or
permitted and that the public health, safety or welfare immediately
requires the granting of a temporary closing order. A temporary
restraining order may be granted pending a hearing for a preliminary
injunction.

(b) A preliminary injunction shall be enforced by the office of canna-
bis management or, at the request of the office of cannabis management,
the attorney general or a police officer with jurisdiction. Whenever
used in this section, the term police officer shall have the same mean-
ing provided for in subdivision thirty-four of section 1.20 of the crim-
inal procedure law.
(c) The office of cannabis management or the attorney general shall show, by affidavit and such other evidence as may be submitted, that there is a cause of action for a permanent injunction abating unlicensed activities in violation of subdivision one of section one hundred twenty-five of this chapter or section 222.46 of the penal law.

3. Temporary closing order. (a) If, on a motion for a preliminary injunction alleging unlicensed activities in violation of subdivision one of section one hundred twenty-five of this chapter or section 222.46 of the penal law in a building or premises used for commercial purposes, the office of cannabis management or the attorney general shall show by clear and convincing evidence that such unlicensed activity is being conducted, maintained, or permitted and that the public health, safety, or welfare immediately requires a temporary closing order, a temporary order closing such part of the building or premises wherein such unlicensed activity is being conducted, maintained, or permitted may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary closing order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time but no later than three business days from the granting of such order; a decision on the motion for a preliminary injunction shall be rendered by the court within three business days after the conclusion of the hearing.

(b) Unless the court orders otherwise, a temporary closing order together with the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served, in the same manner as a summons as provided in the civil practice law and rules.
4. Temporary restraining order. (a) If, on a motion for a preliminary injunction alleging a violation of subdivision one of section one hundred twenty-five of this chapter or section 222.46 of the penal law in a building or premises used for commercial purposes, the office of cannabis management or the attorney general shall show by clear and convincing evidence that such unlicensed activity is being conducted, maintained, or permitted and that the public health, safety, or welfare immediately requires a temporary restraining order, a temporary restraining order may be granted without notice restraining the defendants and all persons from removing or in any manner interfering with the furniture, fixtures and movable property used in conducting, maintaining or permitting such unlicensed activity, including adult-use cannabis, and from further conducting, maintaining or permitting such unlicensed activity, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary restraining order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time but no later than three business days from the granting of such order; a decision on the motion for a preliminary injunction shall be rendered by the court within three business days after the conclusion of the hearing.

(b) Unless the court orders otherwise, a temporary restraining order and the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served, in the same manner as a summons as provided in the civil practice law and rules.

5. Temporary closing order; temporary restraining order; additional enforcement procedures. (a) If on a motion for a preliminary injunction, the office of cannabis management or the attorney general submits
evidence warranting both a temporary closing order and a temporary restraining order, the court shall grant both orders.

(b) Upon the request of the office of cannabis management, any police officer with jurisdiction shall assist in the enforcement of a temporary closing order and temporary restraining order.

c) The police officer serving a temporary closing order or a temporary restraining order shall forthwith make and return to the court an inventory of personal property situated in and used in conducting, maintaining, or permitting the unlicensed activity within the scope of this chapter and shall enter upon the building or premises for such purpose. Such inventory shall be taken in any manner which is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory including, but not limited to photographing such personal property.

d) The police officer serving a temporary closing order shall, upon service of the order, command all persons present in the building or premises to vacate the premises forthwith. Upon the building or premises being vacated, the premises shall be securely locked and all keys delivered to the officer serving the order who thereafter shall deliver the keys to the fee owner, lessor, or lessee of the building or premises involved. If the fee owner, lessor, or lessee is not at the building or premises when the order is being executed, the officer shall secure the premises and retain the keys until the fee owner, lessor, or lessee of the building is ascertained, in which event, the officer shall deliver the keys to such owner, lessor, or lessee.

e) Upon service of a temporary closing order or a temporary restraining order, the police officer shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of such
premises where the unlicensed activity is being conducted, maintained, or permitted. In addition, where a temporary closing order has been granted, the officer shall affix, in a conspicuous place or upon one or more of the principal doors at entrances of such premises, a printed notice that the premises have been closed by court order, which notice shall contain the legend "closed by court order" in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises, the date of the order, the court from which issued, and the name of the officer or agency posting the notice. In addition, where a temporary restraining order has been granted, the police officer shall affix, in the same manner, a notice similar to the notice provided for in relation to a temporary closing order except that the notice shall state that certain described activity is prohibited by court order and that removal of property is prohibited by court order. Mutilation or removal of such a posted order or such a posted notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than five thousand dollars or by imprisonment not exceeding ninety days, or by both, provided such order or notice contains therein a notice of such penalty. Any police officer with jurisdiction shall, upon the request of the office of cannabis management, assist in the enforcement of this section.

(f) Any person who intentionally disobeys or resists a temporary closing order or a temporary restraining order shall be guilty of a misdemeanor which shall be punishable, by a fine of not more than five thousand dollars or by imprisonment not exceeding six months or by both.

6. Temporary closing order; temporary restraining order; defendant's remedies. (a) A temporary closing order or a temporary restraining
order shall be vacated, upon notice to the office of cannabis management, if the defendant shows by affidavit and such other proof as may be submitted that the unlicensed activity within the scope of this chapter has been abated. An order vacating a temporary closing order or a temporary restraining order shall include a provision authorizing the office of cannabis management to inspect the building or premises which is the subject of a proceeding pursuant to this subdivision, periodically without notice, during the pendency of the proceeding for the purpose of ascertaining whether or not the unlicensed activity has been resumed.

Any person who intentionally disobeys or resists an inspection provision of an order vacating a temporary closing order or a temporary restraining order shall be guilty of a misdemeanor which shall be punishable by a fine of not more than five thousand dollars or by imprisonment not exceeding six months, or by both. Any police officer with jurisdiction shall, upon the request of the office of cannabis management, assist in the enforcement of an inspection provision of an order vacating a temporary closing order or temporary restraining order.

(b) A temporary closing order or a temporary restraining order may be vacated by the court, upon notice to the office of cannabis management, when the defendant gives an undertaking and the court is satisfied that the public health, safety, or welfare will be protected adequately during the pendency of the proceeding. The undertaking shall be in an amount equal to the assessed valuation of the building or premises where the unlicensed activity is being conducted, maintained, or permitted or in such other amount as may be fixed by the court. The defendant shall pay to the office of cannabis management and the attorney general, in the event a judgment of permanent injunction is obtained, their actual costs, expenses and disbursements in investigating, bringing, and main-
taining the proceeding. In addition, the defendant shall pay to the
local government or law enforcement agency that provided assistance in
enforcing any order of the court issued pursuant to a proceeding brought
under this section, its actual costs, expenses and disbursements in
assisting with the enforcement of the proceeding.

7. Permanent injunction. (a) A judgment awarding a permanent injunc-
tion pursuant to this chapter shall direct that any illicit cannabis or
purported cannabis seized shall be turned over to the office of cannabis
management or their authorized representative. The judgment may further
direct any police officer with jurisdiction to seize and remove from the
building or premises all material, equipment, and instrumentalities used
in the creation and maintenance of the unlicensed activity and shall
direct the sale by the sheriff of any such property in the manner
provided for the sale of personal property under execution pursuant to
the provisions of the civil practice law and rules. The net proceeds of
any such sale, after deduction of the lawful expenses involved, shall be
paid to the general fund of the state.

(b) A judgment awarding a permanent injunction pursuant to this chap-
ter may direct the closing of the building or premises by any police
officer with jurisdiction to the extent necessary to abate the unli-
censed activity and shall direct any police officer with jurisdiction to
post a copy of the judgment and a printed notice of such closing
conforming to the requirements of this chapter. Mutilation or removal of
such a posted judgment or notice while it remains in force, in addition
to any other punishment prescribed by law, shall be punishable, on
conviction, by a fine of not more than five hundred dollars or by impri-
sonment not exceeding fifteen days, or by both, provided such judgment
contains therein a notice of such penalty. The closing directed by the
judgment shall be for such period as the court may direct but in no
event shall the closing be for a period of more than one year from the
posting of the judgment provided for in this section. If the owner shall
file a bond in the value of the property ordered to be closed and
submits proof to the court that the unlicensed activity has been abated
and will not be created, maintained, or permitted for such period of
time as the building or premises has been directed to be closed in the
judgment, the court may vacate the provisions of the judgment that
direct the closing of the building or premises. A closing by a police
officer with jurisdiction pursuant to the provisions of this section
shall not constitute an act of possession, ownership, or control by such
police officer of the closed premises.

(c) Intentional disobedience or resistance to any provision of a judg-
ment awarding a permanent injunction pursuant to this chapter, in addi-
tion to any other punishment prescribed by law, shall be punishable by a
fine of not more than ten thousand dollars, or by imprisonment not
exceeding six months, or by both.

(d) Upon the request of the office of cannabis management or its
authorized representative, any police officer with jurisdiction shall
assist in the enforcement of a judgment awarding a permanent injunction
entered in a proceeding brought pursuant to this chapter.

(e) A judgment rendered awarding a permanent injunction pursuant to
this chapter shall be and become a lien upon the building or premises
named in the petition in such proceeding, such lien to date from the
time of filing a notice of lis pendens in the office of the clerk of the
county wherein the building or premises is located. Every such lien
shall have priority before any mortgage or other lien that exists prior
to such filing except tax and assessment liens.
(f) A judgment awarding a permanent injunction pursuant to this chapter shall provide, in addition to the costs and disbursements allowed by the civil practice law and rules, upon satisfactory proof by affidavit or such other evidence as may be submitted, the actual costs, expenses and disbursements of the office of cannabis management and the attorney general in investigating, bringing, and maintaining the proceeding.

8. Civil proceedings. In addition to the authority granted in this section to the office of cannabis management and the attorney general, the district attorney, county attorney, corporation counsel, or local government in which such building or premises is located may, after notice to and in coordination with the office of cannabis management, bring and maintain a civil proceeding in the supreme court of the county in which the building or premises is located to permanently enjoin any unlicensed activity in violation of subdivision one of section one hundred twenty-five of this chapter or section 222.46 of the penal law and the person or persons conducting or maintaining such unlicensed activities, in accordance with the procedures set forth in this section. Any such governmental entities shall provide the office of cannabis management with written notice at least ten days prior to bringing a proceeding pursuant to this section; provided, however, that failure to comply with this notice requirement shall not be a defense to the entity proceeding pursuant to this section. The office of cannabis management shall be permitted to intervene as of right in any such proceeding. Any such governmental entity which obtains a permanent injunction pursuant to this chapter shall be awarded, in addition to the costs and disbursements allowed by the civil practice law and rules, upon satisfactory proof by affidavit or such other evidence as may be submitted, the actual costs, expenses and disbursements in investigating, bringing, and
maintaining the proceeding. The authority provided by this subdivision shall be in addition to, and shall not be deemed to diminish or reduce, any rights of the parties described in this section under existing law for any violation pursuant to this chapter or any other law.

§ 10. Subdivisions 3, 6 and 7 of section 17 of the cannabis law are amended and a new subdivision 6-a is added to read as follows:

3. Notice and right of hearing as provided in the state administrative procedure act shall be served at least fifteen days prior to the date of the hearing, provided that, whenever because of danger to the public health, safety or welfare it appears prejudicial to the interests of the people of the state to delay action for fifteen days, the board may serve the respondent with an order requiring certain action or the cessation of certain activities immediately or within a specified period of less than fifteen days. For purposes of this subdivision, violations of subdivision one of section one hundred twenty-five of this chapter shall constitute a danger to the public health, safety, and welfare such that immediate cessation and other action may be warranted and ordered by the board or any person designated by them for this purpose.

6. Following a hearing, the board or their designee may make appropriate determinations and issue a final order in accordance therewith. The respondent shall have thirty days to submit a written appeal to the board. If the respondent does not submit a written appeal within thirty days of the determination of the board or their designee the order shall be final.

6-a. Upon application of the attorney general to a court of competent jurisdiction to judicially enforce any final order issued by or on behalf of the board, the court shall enter an order and judgment enforcing such order, including a money judgment for any penalties assessed.
7. The board may adopt, amend and repeal administrative rules and regulations governing the procedures to be followed with respect to hearings, [such] investigations, and other administrative enforcement actions taken pursuant to this chapter, including any such enforcement actions taken against persons or entities not registered, licensed, or permitted under this chapter. Such administrative enforcement actions shall include, but not be limited to, the imposition of the penalty provided for in subdivision one of section sixteen of this chapter by the office of cannabis management. Such rules [to] shall be consistent with the policy and purpose of this chapter and the effective and fair enforcement of its provisions.

§ 11. Subdivision 1 of section 125 of the cannabis law is amended to read as follows:

1. No person shall cultivate, process, distribute for sale or sell at wholesale or retail or deliver to consumers any cannabis, cannabis product, medical cannabis or cannabinoid hemp or hemp extract product within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter unless otherwise authorized by law. The legislature hereby declares that any activity conducted in violation of this subdivision creates a significant risk of imminent physical harm to natural persons, presents a danger to public health, safety, or welfare, and constitutes a public nuisance.

§ 12. Subdivisions 1, 3 and 5 of section 136 of the cannabis law are amended and a new subdivision 6 is added to read as follows:

1. "Illicit cannabis" means and includes any cannabis flower, concentrated cannabis and cannabis product or purported cannabis on which any tax required to have been paid under any applicable state law, has not been paid. Illicit cannabis shall not include any cannabis lawfully
1 possessed in accordance with this chapter or the penal law. Failure of
2 any person who sells cannabis flower, concentrated cannabis, cannabis
3 products or purported cannabis at retail, except a person who possesses
4 a valid registered organization adult-use cultivator processor distribu-
5 tor retail dispensary license or microbusiness license issued by the
6 office of cannabis management, to produce and exhibit to the office
7 of cannabis management or its duly authorized representative upon
8 demand, an invoice by a distributor with a valid license under this
9 chapter for adult-use cannabis product or purported cannabis in such
10 person's possession shall be presumptive evidence that the tax thereon
11 has not been paid.

3. Any person holding a license, permit or registration pursuant to
this chapter who shall knowingly barter, exchange, give or sell, or
offer to barter, exchange, give or sell any cannabis known by the person

5. Any person who, being the owner, lessee or occupant of any room,
shed, tenement, booth, building, float, vessel or part thereof who know-
ingly permits the same to be used for the cultivation, processing,
distribution, purchase, sale, warehousing or transportation of any
cannabis, in violation of a possession limit in the penal law, known by
the person to be illicit cannabis, is guilty of a [violation] class A
misdemeanor.

6. All illicit cannabis and purported cannabis seized pursuant to the
authority of this chapter, shall be turned over to the office of canna-

bис management or their authorized representative. Such seized illicit
cannabis and purported cannabis shall be forfeited to the state, after
notice and an opportunity for a hearing. If the office of cannabis
management determines the illicit cannabis and purported cannabis may
not be used for law enforcement purposes, it may, within a reasonable
time after the forfeiture of such illicit cannabis, upon publication in
the state registry, destroy such forfeited illicit cannabis and
purported cannabis.

§ 13. Subdivision 3 of section 222.00 of the penal law, as added by
chapter 92 of the laws of 2021, is amended to read as follows:

3. For the purposes of this article, "sell" shall mean to sell, transfer title, possession or both, exchange or barter, rent, lease, or
license to use or consume, conditional, or otherwise, in any manner or
by any means whatsoever for a consideration or any agreement therefor,
or dispose of for compensation, including through a membership program
or through some other indirect means. "Sell" shall not include the
transfer of cannabis or concentrated cannabis between persons twenty-one
years of age or older without compensation in the quantities authorized
in paragraph (b) of subdivision one of section 222.05 of this article.

§ 14. The penal law is amended by adding a new section 222.46 to read
as follows:

§ 222.46 Unlicensed sale of cannabis.

A person is guilty of unlicensed sale of cannabis when he or she know-
ingly and unlawfully sells or gives, or causes to be given or sold
cannabis, concentrated cannabis or medical cannabis, and he or she owns
and/or is principally responsible for the operation of a business or
other commercial enterprise that has been used in the selling or giving,
or causing to be given or sold such cannabis, concentrated cannabis or
medical cannabis and said individual does not hold a valid license,
permit or registration to traffic in cannabis issued by the office of
cannabis management.

Unlicensed sale of cannabis is a class A misdemeanor.
§ 15. Section 2.10 of the criminal procedure law is amended by adding a new subdivision 86 to read as follows:

86. Investigators appointed by the cannabis control board, pursuant to section ten of the cannabis law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair, or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

§ 16. This act shall take effect immediately.