

PROGRAM BILL #1

Legislative Bill Drafting Commission
12002-03-3

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

TAXLA
(Relates to adult-use cannabis)

Tax. adult-use cannabis

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:

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	s34 Fernandez	s28 Krueger	s01 Palumbo	s42 Skoufis
s43 Ashby	s60 Gallivan	s24 Lanza	s21 Parker	s11 Stavisky
s36 Bailey	s12 Gianaris	s16 Liu	s19 Persaud	s45 Stec
s57 Borrello	s59 Gonzalez	s50 Mannion	s13 Ramos	s35 Stewart-
s46 Breslin	s26 Gounardes	s04 Martinez	s05 Rhoads	Cousins
s25 Brisport	s53 Griffo	s07 Martins	s33 Rivera	s44 Tedisco
s55 Brouk	s40 Harckham	s02 Mattera	s39 Rolison	s06 Thomas
s09 Canzoneri-	s54 Helming	s48 May	s61 Ryan	s49 Walczyk
Fitzpatrick	s41 Hinchey	s37 Mayer	s18 Salazar	s52 Webb
s17 Chu	s47 Hoylman-	s03 Murray	s10 Sanders	s38 Weber
s30 Cleare	Sigal	s20 Myrie	s23 Scarcella-	s08 Weik
s14 Comrie	s31 Jackson	s51 Oberacker	Spanton	
s56 Cooney	s27 Kavanagh	s58 O'Mara	s32 Sepulveda	
s22 Felder	s63 Kennedy	s62 Ortt	s29 Serrano	

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:

a078 Alvarez	a140 Conrad	a150 Goodell	a017 Mikulin	a016 Sillitti
a031 Anderson	a032 Cook	a116 Gray	a122 Miller	a052 Simon
a121 Angelino	a039 Cruz	a100 Gunther	a051 Mitaynes	a075 Simone
a037 Ardila	a043 Cunningham	a139 Hawley	a145 Morinello	a114 Simpson
a035 Aubry	a021 Curran	a083 Heastie	a144 Norris	a094 Slater
a120 Barclay	a018 Darling	a028 Hevesi	a045 Novakhov	a005 Smith
a106 Barrett	a053 Davila	a128 Hunter	a069 O'Donnell	a118 Smullen
a105 Beephan	a072 De Los Santos	a029 Hyndman	a091 Otis	a022 Solages
a107 Bendett	a003 DeStefano	a079 Jackson	a132 Palmesano	a110 Steck
a082 Benedetto	a070 Dickens	a104 Jacobson	a088 Paulin	a010 Stern
a042 Bichotte	a054 Dilan	a011 Jean-Pierre	a141 Peoples-	a127 Stirpe
Hermelyn	a081 Dinowitz	a134 Jensen	Stokes	a102 Tague
a117 Blankenbush	a147 DiPietro	a115 Jones	a023 Pheffer	a064 Tannousis
a015 Blumencranz	a009 Durso	a077 Joyner	Amato	a086 Tapia
a073 Bores	a099 Eachus	a125 Kelles	a063 Pirozzolo	a071 Taylor
a098 Brabene	a048 Eichenstein	a040 Kim	a089 Pretlow	a001 Thiele
a026 Braunstein	a074 Epstein	a013 Lavine	a019 Ra	a033 Vanel
a138 Bronson	a109 Fahy	a065 Lee	a030 Raga	a055 Walker
a046 Brook-Krasny	a061 Fall	a126 Lemondes	a038 Rajkumar	a143 Wallace
a020 Brown, E.	a008 Fitzpatrick	a095 Levenberg	a006 Ramos	a112 Walsh
a012 Brown, K.	a004 Flood	a060 Lucas	a062 Reilly	a041 Weinstein
a093 Burdick	a057 Forrest	a135 Lunsford	a087 Reyes	a024 Weprin
a085 Burgos	a124 Friend	a123 Lupardo	a149 Rivera	a059 Williams
a142 Burke	a050 Gallagher	a129 Magnarelli	a027 Rosenthal, D.	a113 Woerner
a119 Buttenschon	a131 Gallahan	a101 Maher	a067 Rosenthal, L.	a080 Zaccaro
a133 Byrnes	a007 Gandolfo	a036 Mamdani	a025 Rozic	a096 Zebrowski
a044 Carroll	a068 Gibbs	a130 Manktelow	a111 Santabarbara	a056 Zinerman
a058 Chandler-	a002 Giglio, J.A.	a108 McDonald	a090 Sayegh	
Waterman	a148 Giglio, J.M.	a014 McDonough	a076 Seawright	
a049 Chang	a066 Glick	a097 McGowan	a084 Septimo	
a136 Clark	a034 Gonzalez-	a146 McMahon	a092 Shimsky	
a047 Colton	Rojas	a137 Meeks	a103 Shrestha	

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).

1 Section 1. Subdivisions (a) and (g) of section 492 of the tax law, as
2 added by chapter 92 of the laws of 2021, are amended and a new subdivi-
3 sion (1) is added to read as follows:

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

12 (g) "Illicit cannabis" means and includes [cannabis flower, concen-
13 trated cannabis, cannabis edible product and cannabis plant] any adult-
14 use cannabis product or purported cannabis, including concentrated
15 cannabis and cannabis edible products on which any tax required to have
16 been paid under this chapter has not been paid. Illicit cannabis shall
17 not include any cannabis lawfully possessed in accordance with the
18 cannabis law or penal law. The failure of any person who sells adult-use
19 cannabis products or purported cannabis at retail (except a person who
20 possesses a valid registered organization adult-use cultivator processor
21 distributor retail dispensary license or microbusiness license issued by
22 the office of cannabis management) to produce and exhibit to the commis-
23 sioner or the commissioner's authorized representative upon demand, an
24 invoice by a distributor with a valid registration under this article
25 for adult-use cannabis product or purported cannabis in such person's
26 possession shall be presumptive evidence that the tax thereon has not
27 been paid.

1 (1) "Purported cannabis" means any product labeled as, advertised as,
2 or held out to be, cannabis or a substance possessing the properties of
3 cannabis or THC, as defined in section three of the cannabis law.

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

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

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

25 § 3. Section 494 of the tax law, as added by chapter 92 of the laws of
26 2021, is amended to read as follows:

27 § 494. Registration and renewal. (a) [(i)] (1) Every distributor on
28 whom tax is imposed under this article and every person who sells

1 adult-use cannabis products at retail must file with the commissioner a
2 properly completed application for a certificate of registration and
3 obtain such certificate before engaging in business. An application for
4 a certificate of registration must be submitted electronically, on a
5 form prescribed by the commissioner, and must be accompanied by a non-
6 refundable application fee of six hundred dollars. A certificate of
7 registration shall not be assignable or transferable and shall be
8 destroyed immediately upon such person ceasing to do business as speci-
9 fied in such certificate, or in the event that such business never
10 commenced.

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

23 (b) (1) The commissioner shall refuse to issue a certificate of regis-
24 tration to any applicant and shall revoke the certificate of registra-
25 tion of any such person who does not possess a valid license from the
26 office of cannabis management.

27 (2) The commissioner may refuse to issue a certificate of registration
28 to any applicant where such applicant:

1 (i) has a past-due liability as that term is defined in section one
2 hundred seventy-one-v of this chapter;

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

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

12 (iv) willfully fails to file a report or return required by this arti-
13 cle;

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

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

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

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

26 (ix) has a place of business at the same premises as that of a
27 distributor upon whom tax is imposed under this article, or person who
28 sells adult-use cannabis products or purported cannabis at retail, whose

1 registration has been revoked and where such revocation is still in
2 effect, unless the applicant provides the commissioner with adequate
3 documentation demonstrating that such applicant acquired the premises or
4 business through an arm's length transaction as defined in paragraph (e)
5 of subdivision one of section four hundred eighty-a of this chapter and
6 that the sale or lease was not conducted, in whole or in part, for the
7 purpose of permitting the original registrant to avoid the effect of the
8 previous revocation for the same premises.

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

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

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

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

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

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

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

1 [(2)] (4) In addition to the grounds for revocation in [paragraph (1)
2 of] this subdivision, where a person who holds a certificate of regis-
3 tration is determined to have possessed or sold illicit cannabis, such
4 certificate of registration shall be revoked:

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

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

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

16 A person who is notified of a revocation of their certificate of
17 registration pursuant to this paragraph shall have the right to have the
18 revocation reviewed by the commissioner or their designee by contacting
19 the department at a telephone number or an address to be disclosed in
20 the notice of revocation within ten days of such person's receipt of
21 such notification. Such person may present written evidence or argument
22 in support of their defense to the revocation or may appear at a sched-
23 uled conference with the commissioner or their designee to present oral
24 arguments and written and oral evidence in support of such defense. The
25 commissioner or their designee is authorized to delay the effective date
26 of the revocation to enable such person to present further evidence or
27 arguments in connection with the revocation. The commissioner or their
28 designee shall cancel the revocation of the certificate of registration

1 if the commissioner or their designee is not satisfied by a preponder-
2 ance of the evidence that a basis for revocation pursuant to this para-
3 graph exists. An order of revocation of a certificate of registration
4 under this paragraph shall not be reviewable by the division of tax
5 appeals but may be reviewed pursuant to article seventy-eight of the
6 civil practice law and rules by a proceeding commenced in the supreme
7 court within four months of the revocation petitioning that the order of
8 revocation be enjoined or set aside. Such proceeding shall be instituted
9 in the county where the commissioner has their principal office. Upon
10 the filing of such petition the court shall have jurisdiction to set
11 aside such order of revocation, in whole or in part, or to dismiss the
12 petition. The jurisdiction of the supreme court shall be exclusive and
13 its order dismissing the petition or enjoining or setting aside such
14 order, in whole or in part, shall be final, subject to review by the
15 appellate division of the supreme court and the court of appeals in the
16 same manner and form and with the same effect as provided by law for
17 appeals from a judgment in a special proceeding. All such proceedings
18 shall be heard and determined by the court and by any appellate court as
19 expeditiously as possible and with lawful precedence over other civil
20 matters. All such proceedings for review shall be heard on the petition,
21 transcript and other papers, and on appeal shall be heard on the record,
22 without requirement of printing.

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

26 (1) The commissioner shall revoke a certificate of authority issued to
27 such person pursuant to section eleven hundred thirty-four of this chap-
28 ter. Such certificate of authority shall be revoked:

1 (i) for a period of one year for the first such possession or sale by
2 such person;

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

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

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

21 (d) A certificate of registration shall be valid for the period speci-
22 fied thereon, unless earlier suspended or revoked. Upon the expiration
23 of the term stated on a certificate of registration, such certificate
24 shall be null and void.

25 [(d)] (e) Every holder of a certificate of registration must notify
26 the commissioner of changes to any of the information stated on the
27 certificate, or of changes to any information contained in the applica-
28 tion for the certificate of registration. Such notification must be made

1 on or before the last day of the month in which a change occurs and must
2 be made electronically on a form prescribed by the commissioner.

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

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

23 (h) No distributor on whom tax is imposed under this article shall
24 sell any adult-use cannabis product or purported cannabis to any person
25 who sells adult-use cannabis products at retail and who is not regis-
26 tered under this section, or whose registration has been suspended or
27 revoked.

1 § 4. Section 496-c of the tax law, as added by chapter 92 of the laws
2 of 2021, is amended to read as follows:

3 § 496-c. [Illicit cannabis penalty] Additional penalties. (a) In
4 addition to any other civil or criminal penalties that may apply, any
5 person knowingly in possession of or knowingly having control over any
6 type of illicit cannabis, as defined in section four hundred ninety-two
7 of this article, after notice and an opportunity for a hearing, shall be
8 liable for a civil penalty for each possession or instance of control of
9 a particular type of illicit cannabis of [not less than two hundred
10 dollars per ounce of illicit cannabis flower, five dollars per milligram
11 of the total weight of any illicit cannabis edible product, fifty
12 dollars per gram of the total weight of any product containing illicit
13 cannabis concentrate, and five hundred dollars per illicit cannabis
14 plant, but not to exceed four hundred dollars per ounce of illicit
15 cannabis flower, ten dollars per milligram of the total weight of any
16 illicit cannabis edible product, one hundred dollars per gram of the
17 total weight of any product containing illicit cannabis concentrate, and
18 one thousand dollars per illicit cannabis plant] up to one hundred fifty
19 thousand dollars for a first violation, and for a second and subsequent
20 violation within three years following a prior violation shall be liable
21 for a civil penalty for each possession or instance of control of a
22 particular type of illicit cannabis of [not less than four hundred
23 dollars per ounce of illicit cannabis flower, ten dollars per milligram
24 of the total weight of any illicit cannabis edible product, one hundred
25 dollars per gram of the total weight of any product containing illicit
26 cannabis concentrate, and one thousand dollars per illicit cannabis
27 plant, but not to exceed five hundred dollars per ounce of illicit
28 cannabis flower, twenty dollars per milligram of the total weight of any

1 illicit cannabis edible product, two hundred dollars per gram of the
2 total weight of any product containing illicit cannabis concentrate, and
3 two thousand dollars per illicit cannabis plant] up to two hundred thou-
4 sand dollars.

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

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

24 (d) Any distributor on whom tax is imposed under this article that
25 sells any adult-use cannabis product or purported cannabis to any person
26 who sells at retail adult-use cannabis products who is not registered
27 under section four hundred ninety-four of this article, or whose regis-
28 tration has been suspended or revoked, shall be liable for a civil

1 penalty of not less than twenty-five thousand dollars for a first
2 violation and not less than fifty thousand dollars for a second or
3 subsequent violation within three years following a prior violation.

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

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

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

14 § 496-d. Enforcement. For purposes of the efficient administration of
15 the taxes imposed by this article, it is the intent of the legislature
16 that the cultivation, processing, distribution and sale of adult-use
17 cannabis products be deemed a heavily regulated industry subject to
18 supervision by the commissioner and the office of cannabis management.
19 The commissioner or the commissioner's duly authorized representatives
20 are hereby authorized:

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

26 (b) To examine any adult-use cannabis products or purported cannabis
27 and the books, papers, invoices and other records of any place of busi-
28 ness or vehicle where adult-use cannabis products or purported cannabis

1 are distributed, placed, stored, sold or offered for sale. Any person in
2 possession, control or occupancy of any such business or vehicle is
3 hereby directed and required upon demand to give to the commissioner or
4 the commissioner's duly authorized representatives or the duly author-
5 ized representatives of the office of cannabis management, the means,
6 facilities, and opportunity for such examinations.

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

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

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

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

26 (d) The commissioner or the commissioner's duly authorized represen-
27 tatives shall seize any illicit cannabis or purported cannabis found in
28 any place of business or vehicle where adult-use cannabis products or

1 purported cannabis are distributed, placed, stored, sold or offered for
2 sale by any person who does not possess a certificate of registration as
3 described in section four hundred ninety-four of this chapter.

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

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

16 § 1823. Adult-use cannabis products taxes. (a) Any person who willful-
17 ly attempts in any manner to evade or defeat the taxes imposed by arti-
18 cle twenty-C of this chapter or payment thereof shall be guilty of a
19 class A misdemeanor for the first such offense and a class E felony for
20 any subsequent such offense within three years of the first such
21 offense.

22 (b) Any person (except a person who possesses a valid registered
23 organization adult-use cultivator processor distributor retail dispen-
24 sary license or microbusiness license issued by the office of cannabis
25 management) who possesses or transports for the purpose of sale any
26 adult-use cannabis product or purported cannabis that was not acquired
27 from a distributor, as defined in section three of the cannabis law,
28 that is duly licensed under section seventy-one of the cannabis law,

1 consistent with the terms of such license, shall be guilty of a class A
2 misdemeanor for the first such offense and a class E felony for any
3 subsequent such offense within three years of the first such offense.

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

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

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

26 (f) Any person knowingly in possession of or knowingly having control
27 over twelve or more pounds of illicit cannabis or purported cannabis or
28 four or more pounds of illicit concentrated cannabis or illicit cannabis

1 edible products, shall be guilty of a class E felony for the first such
2 offense and a class D felony for any subsequent such offense within
3 three years of the first such offense.

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

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

8 40-a. "Person" means an individual, institution, corporation, govern-
9 ment or governmental subdivision or agency, business trust, estate,
10 trust, partnership or association, or any other entity.

11 42-a. "Purported cannabis" means any product labeled as, advertised
12 as, or held out to be, cannabis or a substance possessing the proper-
13 ties of cannabis or THC.

14 47-a. For purposes of sections one hundred twenty-five, one hundred
15 thirty-two, one hundred thirty-three, and one hundred thirty-six of this
16 chapter "sell" or "sale" or "sold" means any sale, transfer of title or
17 possession or both, exchange or barter, rent, lease, or license to use
18 or consume, conditional, or otherwise, in any manner or by any means
19 whatsoever for a consideration or any agreement therefor, or dispose of
20 for compensation, including through a membership program or through some
21 other indirect means.

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

24 1. Any person who violates, disobeys or disregards any term or
25 provision of this chapter or of any lawful notice, order or regulation
26 pursuant thereto [for which a civil or criminal penalty is not otherwise
27 expressly prescribed by law], shall be liable to the people of the state
28 for a civil penalty of not to exceed [five]: (a) twenty-five thousand

1 dollars for every such violation if the person has obtained the appro-
2 priate registration, license or permit required by this chapter; and (b)
3 ten thousand dollars per day if the person has not obtained the appro-
4 priate registration, license or permit required by this chapter.

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

12 2-a. For purposes of the efficient administration of the requirements
13 imposed by this article, it is the intent of the legislature that the
14 cultivation, processing, distribution and sale of adult-use cannabis
15 products be deemed a heavily regulated industry subject to supervision
16 by the office of cannabis management. The duly authorized represen-
17 tatives of the office of cannabis management are hereby authorized to
18 conduct investigations and examinations, during business hours, of any
19 place of business or vehicle where adult-use cannabis products are
20 cultivated, processed, distributed, placed, stored, sold, or offered for
21 sale, whether or not the person in possession, control or occupancy of
22 such place of business or vehicle is registered, licensed, or permitted
23 under the relevant article of this chapter, and to seize any illicit
24 cannabis found in any such place of business or vehicle. If any person
25 refuses to permit the duly authorized representatives of the office of
26 cannabis management to conduct such an investigation or examination, the
27 office of cannabis management or the attorney general, at the request of
28 the office of cannabis management, may apply for a warrant to conduct a

1 search of such place of business or vehicle and seize any illicit canna-
2 bis. The board shall promulgate regulations specifying the procedure for
3 obtaining a warrant pursuant to this subdivision.

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

10 4. It shall be the duty of the attorney general upon the request of
11 the board to bring an action [for an injunction] or proceeding to obtain
12 damages, civil penalties, disgorgement, costs, and injunctive and equi-
13 table relief against any person who violates, disobeys or disregards any
14 term or provision of this chapter or of any lawful notice, order or
15 regulation pursuant thereto; provided, however, that the executive
16 director shall furnish the attorney general with such material, eviden-
17 tiary matter or proof as may be requested by the attorney general for
18 the prosecution of such an action or proceeding.

19 § 9. The cannabis law is amended by adding a new section 16-a to read
20 as follows:

21 § 16-a. Emergency relief. Following service of a notice of violation
22 and order requiring immediate cessation of unlicensed activity under
23 this chapter, the office of cannabis management, or the attorney gener-
24 al, at the request of and on behalf of the office of cannabis manage-
25 ment, may bring and maintain a civil proceeding in the supreme court of
26 the county in which the building or premises is located to permanently
27 enjoin any activity in violation of subdivision one of section one
28 hundred twenty-five of this chapter or section 222.46 of the penal law

1 as a public nuisance that presents a danger to the public health, safe-
2 ty, and welfare, and the person or persons conducting or maintaining
3 such unlicensed activity, in accordance with the following procedures:

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

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

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

26 (d) Defendants, other than the building or premises wherein the unli-
27 censed activity is being conducted, maintained, or permitted, shall be
28 served with the notice of petition as provided in the civil practice law

1 and rules or pursuant to court order. No more than fifteen days prior to
2 such service, the office of cannabis management, or the attorney gener-
3 al, at the request of and on behalf of the office of cannabis manage-
4 ment, shall verify the ongoing occupancy of any natural person who is a
5 tenant of record and alleged to have caused or permitted the unlicensed
6 activity in the building or premises wherein the unlicensed activity is
7 alleged to have been conducted, maintained, or permitted.

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

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

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

26 (h) If, a finding is made that the defendant has conducted, main-
27 tained, or permitted a violation of subdivision one of section one
28 hundred twenty-five of this chapter or section 222.46 of the penal law,

1 a penalty, to be included in the judgment, may be awarded in an amount
2 not to exceed ten thousand dollars for each day it is found that the
3 defendant intentionally conducted, maintained or permitted the unli-
4 censed activity. Upon recovery, such penalty shall be paid to the
5 office of cannabis management.

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

23 (b) A preliminary injunction shall be enforced by the office of canna-
24 bis management or, at the request of the office of cannabis management,
25 the attorney general or a police officer with jurisdiction. Whenever
26 used in this section, the term police officer shall have the same mean-
27 ing provided for in subdivision thirty-four of section 1.20 of the crim-
28 inal procedure law.

1 (c) The office of cannabis management or the attorney general shall
2 show, by affidavit and such other evidence as may be submitted, that
3 there is a cause of action for a permanent injunction abating unlicensed
4 activities in violation of subdivision one of section one hundred twen-
5 ty-five of this chapter or section 222.46 of the penal law.

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

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

1 4. Temporary restraining order. (a) If, on a motion for a preliminary
2 injunction alleging a violation of subdivision one of section one
3 hundred twenty-five of this chapter or section 222.46 of the penal law
4 in a building or premises used for commercial purposes, the office of
5 cannabis management or the attorney general shall show by clear and
6 convincing evidence that such unlicensed activity is being conducted,
7 maintained, or permitted and that the public health, safety, or welfare
8 immediately requires a temporary restraining order, a temporary
9 restraining order may be granted without notice restraining the defend-
10 ants and all persons from removing or in any manner interfering with the
11 furniture, fixtures and movable property used in conducting, maintaining
12 or permitting such unlicensed activity, including adult-use cannabis,
13 and from further conducting, maintaining or permitting such unlicensed
14 activity, pending order of the court granting or refusing the prelimi-
15 nary injunction and until further order of the court. Upon granting a
16 temporary restraining order, the court shall direct the holding of a
17 hearing for the preliminary injunction at the earliest possible time but
18 no later than three business days from the granting of such order; a
19 decision on the motion for a preliminary injunction shall be rendered by
20 the court within three business days after the conclusion of the hear-
21 ing.

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

26 5. Temporary closing order; temporary restraining order; additional
27 enforcement procedures. (a) If on a motion for a preliminary injunc-
28 tion, the office of cannabis management or the attorney general submits

1 evidence warranting both a temporary closing order and a temporary
2 restraining order, the court shall grant both orders.

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

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

15 (d) The police officer serving a temporary closing order shall, upon
16 service of the order, command all persons present in the building or
17 premises to vacate the premises forthwith. Upon the building or premises
18 being vacated, the premises shall be securely locked and all keys deliv-
19 ered to the officer serving the order who thereafter shall deliver the
20 keys to the fee owner, lessor, or lessee of the building or premises
21 involved. If the fee owner, lessor, or lessee is not at the building or
22 premises when the order is being executed, the officer shall securely
23 padlock the premises and retain the keys until the fee owner, lessor, or
24 lessee of the building is ascertained, in which event, the officer shall
25 deliver the keys to such owner, lessor, or lessee.

26 (e) Upon service of a temporary closing order or a temporary restrain-
27 ing order, the police officer shall post a copy thereof in a conspicuous
28 place or upon one or more of the principal doors at entrances of such

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

23 (f) Any person who intentionally disobeys or resists a temporary clos-
24 ing order or a temporary restraining order shall be guilty of a misde-
25 meanor which shall be punishable, by a fine of not more than five thou-
26 sand dollars or by imprisonment not exceeding six months or by both.

27 6. Temporary closing order; temporary restraining order; defendant's
28 remedies. (a) A temporary closing order or a temporary restraining

1 order shall be vacated, upon notice to the office of cannabis manage-
2 ment, if the defendant shows by affidavit and such other proof as may be
3 submitted that the unlicensed activity within the scope of this chapter
4 has been abated. An order vacating a temporary closing order or a tempo-
5 rary restraining order shall include a provision authorizing the office
6 of cannabis management to inspect the building or premises which is the
7 subject of a proceeding pursuant to this subdivision, periodically with-
8 out notice, during the pendency of the proceeding for the purpose of
9 ascertaining whether or not the unlicensed activity has been resumed.
10 Any person who intentionally disobeys or resists an inspection provision
11 of an order vacating a temporary closing order or a temporary restrain-
12 ing order shall be guilty of a misdemeanor which, shall be punishable,
13 by a fine of not more than five thousand dollars or by imprisonment not
14 exceeding six months, or by both. Any police officer with jurisdiction
15 shall, upon the request of the office of cannabis management, assist in
16 the enforcement of an inspection provision of an order vacating a tempo-
17 rary closing order or temporary restraining order.

18 (b) A temporary closing order or a temporary restraining order may be
19 vacated by the court, upon notice to the office of cannabis management,
20 when the defendant gives an undertaking and the court is satisfied that
21 the public health, safety, or welfare will be protected adequately
22 during the pendency of the proceeding. The undertaking shall be in an
23 amount equal to the assessed valuation of the building or premises where
24 the unlicensed activity is being conducted, maintained, or permitted or
25 in such other amount as may be fixed by the court. The defendant shall
26 pay to the office of cannabis management and the attorney general, in
27 the event a judgment of permanent injunction is obtained, their actual
28 costs, expenses and disbursements in investigating, bringing, and main-

1 taining the proceeding. In addition, the defendant shall pay to the
2 local government or law enforcement agency that provided assistance in
3 enforcing any order of the court issued pursuant to a proceeding brought
4 under this section, its actual costs, expenses and disbursements in
5 assisting with the enforcement of the proceeding.

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

18 (b) A judgment awarding a permanent injunction pursuant to this chap-
19 ter may direct the closing of the building or premises by any police
20 officer with jurisdiction to the extent necessary to abate the unli-
21 censed activity and shall direct any police officer with jurisdiction to
22 post a copy of the judgment and a printed notice of such closing
23 conforming to the requirements of this chapter. Mutilation or removal of
24 such a posted judgment or notice while it remains in force, in addition
25 to any other punishment prescribed by law, shall be punishable, on
26 conviction, by a fine of not more than five hundred dollars or by impri-
27 sonment not exceeding fifteen days, or by both, provided such judgment
28 contains therein a notice of such penalty. The closing directed by the

1 judgment shall be for such period as the court may direct but in no
2 event shall the closing be for a period of more than one year from the
3 posting of the judgment provided for in this section. If the owner shall
4 file a bond in the value of the property ordered to be closed and
5 submits proof to the court that the unlicensed activity has been abated
6 and will not be created, maintained, or permitted for such period of
7 time as the building or premises has been directed to be closed in the
8 judgment, the court may vacate the provisions of the judgment that
9 direct the closing of the building or premises. A closing by a police
10 officer with jurisdiction pursuant to the provisions of this section
11 shall not constitute an act of possession, ownership, or control by such
12 police officer of the closed premises.

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

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

22 (e) A judgment rendered awarding a permanent injunction pursuant to
23 this chapter shall be and become a lien upon the building or premises
24 named in the petition in such proceeding, such lien to date from the
25 time of filing a notice of lis pendens in the office of the clerk of the
26 county wherein the building or premises is located. Every such lien
27 shall have priority before any mortgage or other lien that exists prior
28 to such filing except tax and assessment liens.

1 (f) A judgment awarding a permanent injunction pursuant to this chap-
2 ter shall provide, in addition to the costs and disbursements allowed by
3 the civil practice law and rules, upon satisfactory proof by affidavit
4 or such other evidence as may be submitted, the actual costs, expenses
5 and disbursements of the office of cannabis management and the attorney
6 general in investigating, bringing, and maintaining the proceeding.

7 8. Civil proceedings. In addition to the authority granted in this
8 section to the office of cannabis management and the attorney general,
9 the district attorney, county attorney, corporation counsel, or local
10 government in which such building or premises is located may, after
11 notice to and in coordination with the office of cannabis management,
12 bring and maintain a civil proceeding in the supreme court of the county
13 in which the building or premises is located to permanently enjoin any
14 unlicensed activity in violation of subdivision one of section one
15 hundred twenty-five of this chapter or section 222.46 of the penal law
16 and the person or persons conducting or maintaining such unlicensed
17 activities, in accordance with the procedures set forth in this section.
18 Any such governmental entities shall provide the office of cannabis
19 management with written notice at least ten days prior to bringing a
20 proceeding pursuant to this section; provided, however, that failure to
21 comply with this notice requirement shall not be a defense to the entity
22 proceeding pursuant to this section. The office of cannabis management
23 shall be permitted to intervene as of right in any such proceeding. Any
24 such governmental entity which obtains a permanent injunction pursuant
25 to this chapter shall be awarded, in addition to the costs and disburse-
26 ments allowed by the civil practice law and rules, upon satisfactory
27 proof by affidavit or such other evidence as may be submitted, the actu-
28 al costs, expenses and disbursements in investigating, bringing, and

1 maintaining the proceeding. The authority provided by this subdivision
2 shall be in addition to, and shall not be deemed to diminish or reduce,
3 any rights of the parties described in this section under existing law
4 for any violation pursuant to this chapter or any other law.

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

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

19 6. Following a hearing, the board or their designee may make appropri-
20 ate determinations and issue a final order in accordance therewith. The
21 respondent shall have thirty days to submit a written appeal to the
22 board. If the respondent does not submit a written appeal within thirty
23 days of the determination of the board or their designee the order shall
24 be final.

25 6-a. Upon application of the attorney general to a court of competent
26 jurisdiction to judicially enforce any final order issued by or on
27 behalf of the board, the court shall enter an order and judgment enforc-
28 ing such order, including a money judgment for any penalties assessed.

1 7. The board may adopt, amend and repeal administrative rules and
2 regulations governing the procedures to be followed with respect to
3 hearings, [such] investigations, and other administrative enforcement
4 actions taken pursuant to this chapter, including any such enforcement
5 actions taken against persons or entities not registered, licensed, or
6 permitted under this chapter. Such administrative enforcement actions
7 shall include, but not be limited to, the imposition of the penalty
8 provided for in subdivision one of section sixteen of this chapter by
9 the office of cannabis management. Such rules [to] shall be consistent
10 with the policy and purpose of this chapter and the effective and fair
11 enforcement of its provisions.

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

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

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

25 1. "Illicit cannabis" means and includes any cannabis flower, concen-
26 trated cannabis and cannabis product or purported cannabis on which any
27 tax required to have been paid under any applicable state law, has not
28 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.

12 3. Any person holding a license, permit or registration pursuant to
13 this chapter who shall knowingly barter, exchange, give or sell, or
14 offer to barter, exchange, give or sell any cannabis known by the person
15 to be illicit cannabis is guilty of a class A misdemeanor.

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

23 6. All illicit cannabis and purported cannabis seized pursuant to the
24 authority of this chapter, shall be turned over to the office of canna-
25 bis management or their authorized representative. Such seized illicit
26 cannabis and purported cannabis shall be forfeited to the state, after
27 notice and an opportunity for a hearing. If the office of cannabis
28 management determines the illicit cannabis and purported cannabis may

1 not be used for law enforcement purposes, it may, within a reasonable
2 time after the forfeiture of such illicit cannabis, upon publication in
3 the state registry, destroy such forfeited illicit cannabis and
4 purported cannabis.

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

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

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

18 § 222.46 Unlicensed sale of cannabis.

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

28 Unlicensed sale of cannabis is a class A misdemeanor.

1 § 15. Section 2.10 of the criminal procedure law is amended by adding
2 a new subdivision 86 to read as follows:

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

8 § 16. This act shall take effect immediately.