

STATE OF NEW YORK

4094--A

1991-1992 Regular Sessions

IN SENATE

March 21, 1991

Introduced by Sens. GALIBER, MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to establish a controlled substance law, constituting chapter 10 of the consolidated laws; to amend the alcoholic beverage control law, in relation to the sale, distribution and cultivation of marijuana; to repeal articles 220 and 221 of the penal law relating to controlled substances and marijuana; to repeal article 33 of the public health law relating to controlled substances; to repeal article 39 of the general business law relating to drug-related paraphernalia; to amend the criminal procedure law, in relation to appointing inspectors by the controlled substances authority; to amend the tax law, in relation to imposition of a sales tax on controlled substances; and to amend the state finance law, in relation to creating the controlled substance treatment fund

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

- 1 Section 1. Legislative findings. The legislature hereby finds the
2 following:
- 3 a. Although many different enforcement strategies have been imple-
4 mented over the past seventy years, prohibition has failed to stop the
5 sale of illegal drugs.
- 6 b. Stringent enforcement policies for over a decade have led to an in-
7 crease in disease and crime, and the problems of the hard core drug-
8 users have continued to deteriorate.
- 9 c. The increased incidence of AIDS, tuberculosis, sexually transmitted
10 diseases and other illness is directly or indirectly related to drug use
11 under conditions of illegality. Present policies offer no confidence

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 that these infections will be controlled. In fact, historic gains
2 against infectious diseases are being reversed.

3 d. The ill-effects of prohibition cause intense suffering and force
4 medicaid, social service and law enforcement costs to rise to the point
5 they conflict with other legitimate goals of government most especially
6 education and the administration of our courts.

7 e. Prohibition endangers our youth, and ensnares them in a violent
8 subculture. The vast profits from the trade in illicit drugs has gla-
9 morized a criminal class and promoted the involvement of the young in
10 violent and degrading criminal enterprises. No child labor laws can be
11 enforced in the ruthless drug market. Children and teenagers work all
12 hours selling drugs, and too often purchase guns with their earnings.
13 Youngsters are killed or kill at appalling rates, as they imitate models
14 of behavior drawn from the drug underworld.

15 f. As a result, predatory crimes are rising, homicides have surpassed
16 all previous records, killing not only those actively involved in the
17 drug trade, but a frightening number of police and innocent bystanders.

18 g. In this manner, the immense profits of the illicit drug trade have
19 spawned wealthy, powerful and savage criminal enterprises which jeopar-
20 dize our children and place our inner-cities under siege.

21 h. The decriminalization of drugs is the only viable means of reducing
22 the immense profits from the illicit drug trade and its rapacious
23 criminality. Once society is relieved of the unintended consequences of
24 prohibition, it will be in position to direct its medical, psychological
25 and institutional resources to assisting the addict.

26 § 2. A new consolidated chapter, to be chapter 10 of the consolidated
27 laws, is enacted to read as follows:

28 **CHAPTER 10 OF THE CONSOLIDATED LAWS**
29 **CONTROLLED SUBSTANCE LAW**

30 Article	Section
31	
32 1. Short title; definitions.	(§§ 1-2)
33 2. State controlled substances authority.	(§§ 10-18)
34 3. Regulation of controlled substances.	(§§ 30-48)
35 4. Miscellaneous provisions.	(§§ 50-54)

36 **ARTICLE 1**
37 **SHORT TITLE; DEFINITIONS**

38 Section 1. Short title.

39 2. Definitions.

40 Section 1. Short title. This chapter shall be known and may be cited
41 as the "controlled substance law".

42 § 2. Definitions. Whenever used in this chapter:

43 1. "Agent" shall mean a person authorized to act on behalf of or at
44 the direction of a manufacturer, distributor or dispenser; except that
45 such term shall not include a common or contract carrier, public ware-
46 houseman, or employee of the carrier or warehouseman when acting in the
47 usual and lawful course of the carrier's or warehouseman's business.

48 2. "Authority" shall mean the state controlled substances authority
49 created pursuant to section ten of this chapter.

50 3. "Concentrated cannabis" shall mean:

51 (a) the separated resin, whether crude or purified, obtained from a
52 plant of the genus Cannabis; or

53 (b) a material, preparation, mixture, compound or other substance
54 which contains more than two and one-half percent by weight of delta-9
55 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering sys-

1 tem, or delta-1 tetrahydrocannabinol or its isomer, delta-1 (6) monoter-
2 pene numbering system.

3 4. "Controlled substance" means a substance or substances which are
4 designated as controlled substances by the authority, and shall include
5 but not be limited to cocaine, marijuana and heroin.

6 5. "Dispense" shall mean to deliver a controlled substance to an ulti-
7 mate user or research subject by lawful means and includes the packag-
8 ing, labeling, or compounding necessary to prepare the substance for
9 such delivery.

10 6. "Distribute" shall mean to deliver a controlled substance other
11 than by administering or dispensing.

12 7. "Distributor" shall mean a person who distributes a controlled
13 substance.

14 8. "Intoxicated" shall mean a condition in which by reason of in-
15 gestion of intoxicating liquor or controlled substance, an individual
16 does not have normal use of his or her physical or mental faculties,
17 thus rendering him or her incapable of acting in the manner in which an
18 ordinary prudent and cautious person, in full possession of his or her
19 faculties using reasonable care, would act under like conditions to the
20 degree that he or she may endanger himself or herself or other persons
21 or property.

22 9. "Label" shall mean a display of written, printed or graphic matter
23 upon the package of any controlled substance, which must appear on the
24 outside container or wrapper, if there be any, or be easily visible
25 through the outside container or wrapper.

26 10. "Labeling" shall mean all labels or other written, printed or
27 graphic matter upon any controlled substance or any containers or wrap-
28 pers thereof; or accompanying such controlled substance.

29 11. "License" shall mean a written authorization issued by the
30 authority permitting persons to engage in the manufacture, distribu-
31 tion, dispensing or sale or otherwise handle controlled substances pur-
32 suant to this chapter.

33 12. "Manufacture" shall mean the production, preparation, propagation,
34 compounding, cultivation, conversion or processing of a controlled sub-
35 stance, either directly or indirectly or by extraction from substances
36 of natural origin, or independently by means of chemical synthesis, or
37 by a combination of extraction and chemical synthesis, and includes any
38 packaging or repackaging of the substance or labeling or relabeling of
39 its container, except that this term does not include the preparation,
40 compounding, packaging or labeling of a controlled substance:

41 (a) by a practitioner as an incident to his administering or dispens-
42 ing of a controlled substance in the course of his professional prac-
43 tice; or

44 (b) by a practitioner, or by his authorized agent under his supervi-
45 sion, for the purpose of, or as an incident to, research, teaching, or
46 chemical analysis and not for sale; or

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

49 13. "Marijuana" shall mean all parts of the plant of the genus *Canna-*
50 *bis*, whether growing or not; the seeds thereof; the resin extracted from
51 any part of the plant; and every compound, manufacture, salt, deriva-
52 tive, mixture, or preparation of the plant, its seeds or resin. It does
53 not include the mature stalks of the plant, fiber produced from the
54 stalks, oil or cake made from the seeds of the plant, any other com-
55 pound, manufacture, salt, derivative, mixture, or preparation of the
56 mature stalks (except the resin extracted therefrom), fiber, oil, or

1 cake, or the sterilized seed of the plant which is incapable of
2 germination.

3 14. "Narcotic drug" shall mean any of the following, whether produced
4 directly or indirectly by extraction from substances of vegetable
5 origin, or independently by means of chemical synthesis, or by a combi-
6 nation of extraction and chemical synthesis:

7 (a) opium and opiate, and any salt, compound, derivative, or prepara-
8 tion of opium or opiate;

9 (b) any salt, compound, isomer, derivative, or preparation thereof
10 which is chemically equivalent or identical with any of the substances
11 referred to in paragraph (a) of this subdivision, but not including the
12 isoquinoline alkaloids of opium;

13 (c) opium poppy and poppy straw.

14 15. "Opiate" shall mean any substance having an addiction-forming or
15 addiction-sustaining liability similar to morphine or being capable of
16 conversion into a drug having addiction-forming or addiction-sustaining
17 liability. It does not include, unless specifically designated as con-
18 trolled pursuant to subdivision four of this section, the dextrorotatory
19 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
20 It does include its racemic and levorotatory forms.

21 16. "Opium poppy" shall mean the plant of the species *Papaver somnif-*
22 *erum* L., except its seeds.

23 17. "Package" shall mean the immediate container including a pack,
24 box, carton or container of any kind in which a controlled substance is
25 offered for sale, sold or otherwise distributed to consumers, but shall
26 not include package liners.

27 18. "Person" shall mean individual, institution, corporation, govern-
28 ment or governmental subdivision or agency, business trust, estate,
29 trust, partnership or association, or any other legal entity.

30 19. "Poppy straw" shall mean all parts, except the seeds, of the opium
31 poppy, after mowing.

32 20. "Sell" shall mean to sell, exchange, give or dispose of to
33 another, or offer or agree to do the same.

34 21. "Ultimate user" shall mean a person who lawfully obtains and pos-
35 sesses a controlled substance for his own use or the use by a member of
36 his household.

37 ARTICLE 2

38 STATE CONTROLLED SUBSTANCES AUTHORITY

39 Section 10. State controlled substances authority.

40 11. Appointment of authority.

41 12. Expenses.

42 13. Removal.

43 14. Vacancies; quorum.

44 15. Officers; employees; offices.

45 16. Disqualification of members and employees of the authority.

46 17. Powers of the authority.

47 18. Oath of office.

48 § 10. State controlled substances authority. There is hereby esta-
49 blished within the executive department the state controlled substances
50 authority. The authority shall consist of five members, who shall be
51 known as commissioners, all of whom shall be citizens and residents of
52 the state.

53 § 11. Appointment of authority. The members of the authority shall
54 be appointed by the governor by and with the consent of the senate. Not
55 more than three members of the authority shall belong to the same polit-

1 ical party. The chairman of the authority shall be appointed by the
2 governor from among the commissioners of the authority. Such members
3 shall be appointed to serve for a term of five years each and until
4 their successors have been appointed and qualified.

5 § 12. Expenses. The members of the authority shall receive a salary
6 to be fixed by the governor within the amounts appropriated therefor.
7 In addition, each member of the authority shall be entitled to his or
8 her expenses actually and necessarily incurred in the performance of
9 duties.

10 § 13. Removal. Any member of the authority may be removed by the gov-
11 ernor for cause after an opportunity to be heard. A statement of the
12 cause of his removal shall be filed by the governor in the office of the
13 secretary of state.

14 § 14. Vacancies; quorum. In the event of a vacancy caused by death,
15 resignation, removal or disability of any member, the vacancy shall be
16 filled by the governor by and with the advice and consent of the senate
17 for the unexpired term. Three members of the authority shall constitute
18 a quorum for the purpose of conducting the business thereof; but a
19 majority vote of all the members in office shall be necessary for
20 action.

21 § 15. Officers; employees; offices. The authority shall appoint a
22 counsel, a secretary, a chief executive officer and three assistant
23 chief executive officers and fix their compensation within the budgetary
24 appropriation therefor. The chief executive officer and the assistant
25 chief executive officers shall be deputy commissioners and, together
26 with the secretary to the authority and attorneys attached to the legal
27 staff, shall, subject to the supervision and control of the authority,
28 exercise any of the functions, powers and duties conferred upon the
29 authority by law which the authority may delegate to them. Each commis-
30 sioner may appoint and at pleasure remove a confidential secretary. The
31 authority shall also have power to engage necessary deputies, as-
32 sistants, inspectors, and other employees within the limits provided by
33 appropriation. Inspectors so employed by the authority shall be deemed
34 to be peace officers for the purpose of enforcing the provisions of this
35 chapter or judgments or orders obtained for violation thereof, with all
36 the powers set forth in section 2.20 of the criminal procedure law. The
37 counsel, secretary, chief executive officer, assistant chief executive
38 officers, confidential secretaries to commissioners and deputies shall
39 be in the exempt class of the civil service. The other assistants, in-
40 spectors and employees of the authority shall all be in the competitive
41 class of the civil service. The authority shall have its principal of-
42 fice in the city of Albany and may maintain a branch office in the
43 cities of New York and Buffalo and such other places as it may deem
44 necessary.

45 § 16. Disqualification of members and employees of the authority. No
46 member of the authority or any officer, deputy, assistant, inspector or
47 employee thereof shall have any interest, direct or indirect, either
48 proprietary or by means of any loan, mortgage or lien, or in any other
49 manner, in or on any premises where controlled substances are manufac-
50 tured or sold; nor shall he or she have any interest, direct or in-
51 direct, in any business wholly or partially devoted to the manufacture,
52 sale, transportation or storage of controlled substances, or own any
53 stock in any corporation which has any interest, proprietary or other-
54 wise, direct or indirect, in any premises where controlled substances
55 are manufactured or sold, or in any business wholly or partially devoted
56 to the manufacture, sale, transportation or storage of controlled sub-

1 stances, or receive any commission or profit whatsoever, direct or in-
2 direct, from any person applying for or receiving any license or permit
3 provided for in this chapter, or hold any other public office in the
4 state or in any political subdivision except upon the written permission
5 of the controlled substances authority, such member of the authority or
6 officer, deputy, assistant, inspector or employee thereof may hold the
7 public office of notary public or member of a community board of educa-
8 tion in the city school district of the city of New York. Any one who
9 violates any of the provisions of this section shall be removed.

10 § 17. Powers of the authority. The authority shall have the following
11 functions, powers and duties:

12 1. To issue or refuse to issue any license provided for in this
13 chapter.

14 2. To revoke, cancel or suspend for cause any license issued under
15 this chapter.

16 3. To remove any employee of the authority for cause after giving
17 such member or employee a copy of the charges against him in writing,
18 and an opportunity to be heard thereon. Any action taken under this
19 subdivision shall be subject to and in accordance with the civil service
20 law.

21 4. To fix by rule the standards of manufacture and processing in or-
22 der to insure the use of proper chemical and other component substances
23 and methods in the manufacture of controlled substances to be sold or
24 consumed in the state including quality control, specifications and
25 labeling.

26 5. To keep records in such form as may be prescribed by the authority
27 of all licenses issued and revoked within the state; such records shall
28 be so kept as to provide ready information as to the identity of all
29 licenses including the names of the officers and directors of corporate
30 licensees and the location of all licensed premises.

31 6. To inspect or provide for the inspection of any premises where
32 controlled substances are manufactured, sold or dispensed.

33 7. To prescribe forms of applications for licenses under this chapter
34 and of all reports which it deems necessary to be made by any licensee.

35 8. To make an annual report to the governor and the legislature of
36 its activities for the preceding year.

37 9. To hold hearings, subpoena witnesses, compel their attendance, ad-
38 minister oaths, examine any person under oath and in connection
39 therewith to require the production of any books or papers relative to
40 the inquiry; to take proof and testimony concerning all matters within
41 its jurisdiction. A subpoena issued under this section shall be regu-
42 lated by the civil practice law and rules.

43 10. To create and publish a list of substances, compounds and prepara-
44 tions which shall be deemed to be controlled substances.

45 11. To create and publish lists of substances, compounds and prepara-
46 tions which may be sold or dispensed by certain licensees pursuant to
47 this chapter.

48 12. The powers provided in this section may be delegated by the
49 authority to any member, chief executive officer, assistant chief exe-
50 cutive officers, deputy commissioners, secretary to the authority and
51 attorneys attached to the legal staff.

52 13. To promulgate such rules and regulations as shall be necessary to
53 accomplish the purposes and powers authorized by this chapter.

54 § 18. Oath of office. Each member of the authority shall, before en-
55 tering upon his or her duties, take and file an oath of office as
56 prescribed by section ten of the public officers law.

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- ARTICLE 3
REGULATION OF CONTROLLED SUBSTANCES
- Section 30. Decriminalization in general.
31. Licensing requirement.
32. Licenses.
33. Grounds for refusal to license.
34. Revocation of licenses for cause.
35. Licenses; general provisions.
36. Addiction care centers.
37. Surrender of license.
38. Discounts for bulk purchases; prohibited.
39. Manufacturers and wholesalers not to be interested in retail premises.
40. House-to-house sales prohibited.
41. Advertising.
42. Limitation on liability.
43. Packaging requirements.
44. Labeling requirements.
45. Prohibited sales.
46. Procuring controlled substances for persons under the age of twenty-one years.
47. Offense for one under age twenty-one years to purchase or attempt to purchase a controlled substance through fraudulent means.
48. Violation of article a class E felony.
- § 30. Decriminalization in general. 1. Notwithstanding any law, rule, regulation or ordinance to the contrary, the manufacture, distribution, sale or possession of controlled substances shall not be prohibited if such act is in compliance with the provisions of this chapter.
2. Provided, however, the following restrictions may be imposed:
- (a) reasonable restrictions on the location and operating hours of any person or business who manufactures, distributes, sells or dispenses controlled substances, provided such restrictions are not intended to prevent the sale of controlled substances;
- (b) reasonable restrictions on the types of controlled substances which may be sold or dispensed by licensed retailers pursuant to this chapter;
- (c) reasonable restrictions on the location and operating hours of any person or business who sells controlled substance paraphernalia, provided such restrictions are not intended to prevent the sale of controlled substance paraphernalia;
- (d) prohibition of the operation of motor vehicles or heavy machinery while intoxicated and enactment of penalties for the violation thereof;
- (e) marijuana, concentrated cannabis and such controlled substances as are designated by the authority may be sold only by persons licensed pursuant to alcoholic beverage control law. The controlled substances designated by the authority to be sold pursuant to the alcoholic beverage control law shall be those which pose a risk to humans equal to or less than the risks posed by alcohol;
- (f) the sale, distribution and cultivation of marijuana shall be jointly regulated by the state liquor authority and the controlled substances authority;
- (g) reasonable regulation of the dispensing of controlled substances of high potency by addiction care centers;
- (h) the levying of taxes and licensing fees for the manufacture, distribution or sale of controlled substances, provided that the purpose of

1 such taxes and fees is not to prohibit the manufacture, distribution or
2 sale of controlled substances. All such licensing fees and taxes shall
3 be deposited into the controlled substance treatment fund, established
4 pursuant to section eighty-nine-d of the state finance law;

5 (i) provisions for education on the dangers of the use of controlled
6 substances, including but not limited to: public and private school pro-
7 grams, public service announcements, billboards and other advertising;

8 (j) provision of treatment for addiction to controlled substances, in-
9 cluding but not limited to: methadone maintenance and detoxification,
10 cocaine withdrawal, support groups and emergency services. Emergency
11 services may include, but shall not be limited to: hotlines for con-
12 trolled substance users who become dysphoric, develop uncontrollable
13 cravings, or signs or symptoms of toxicity or overdose while using con-
14 trolled substances; and

15 (k) prohibition against fraudulent and deceptive practices in the
16 manufacture, distribution and sale of controlled substances.

17 § 31. Licensing requirement. 1. No person shall manufacture for sale
18 or sell any controlled substance without a license issued pursuant to
19 this chapter.

20 2. No manufacturer, distributor or wholesaler shall sell or agree to
21 sell or deliver a controlled substance for the purpose of resale to any
22 person who is not licensed to sell controlled substances pursuant to
23 this chapter.

24 3. No person holding a license pursuant to this chapter shall purchase
25 or agree to purchase any controlled substance from any person who is not
26 licensed to sell controlled substances pursuant to this chapter.

27 4. No person shall employ, or permit to be employed, or shall suffer
28 to work on any premises licensed for the sale of controlled substances
29 pursuant to this chapter, any person under the age of twenty-one years
30 in any capacity where the duties of such person require or permit the
31 person to sell, dispense or handle controlled substances.

32 5. No person licensed pursuant to this chapter shall sell, offer to
33 sell or deliver any controlled substance to any person except for cash
34 paid at the time of delivery. For the purposes of this subdivision,
35 "cash" shall mean and include currency and coin of the United States of
36 America, certified check, money order, bank officers check or a check
37 drawn on the account of the purchaser, payable to the seller not later
38 than the date of delivery and which is honored upon presentment for
39 payment.

40 6. Any person who violates the provisions of this section shall be
41 guilty of a class E felony.

42 § 32. Licenses. 1. Every person engaging in the manufacture, dis-
43 tribution or sale of controlled substances shall obtain a license to do
44 so, pursuant to the procedures established therefor by the authority.

45 2. Applications for licenses shall be made in writing and shall in-
46 clude the following information:

47 (a) the name, age and address of each applicant and the basis of his
48 or her citizenship;

49 (b) the name and residence of each person interested or about to
50 become interested in the business to be licensed, together with the
51 nature of such interests. If the applicant is a corporation, the appli-
52 cation shall also include the name of the corporation, the names of its
53 directors and the names of its officers;

54 (c) the address of the premises to be licensed;

55 (d) a statement by each applicant that he or she has not been con-
56 victed of a felony, other than the sale, possession, distribution, im-

1 portation or manufacture of controlled substances and that he or she has
2 not had a license issued pursuant to this chapter revoked for cause;

3 (e) a list of all licenses currently or previously issued to the ap-
4 plicant pursuant to the alcoholic beverage control law and a statement
5 that no such licenses have been revoked for cause and the circumstances
6 surrounding the revocation of any such licenses;

7 (f) a statement signed by the duly authorized city, town or village
8 official of the locality in which the business is to be operated that
9 such business is in compliance with all state and local health, occu-
10 pancy and zoning regulations; and

11 (g) such other information as required by the authority.

12 3. Every person holding a license shall notify the authority within
13 ten days of any change in the information which is required to be
14 provided pursuant to subdivision two of this section. Failure to notify
15 the authority of such changes in a timely manner shall be grounds for
16 revocation of the license.

17 4. The authority shall render a determination on every application
18 submitted within thirty days of the receipt thereof.

19 5. Any person who makes a knowing and willful false statement in the
20 application for a license, pursuant to this section shall be guilty of a
21 class E felony.

22 § 33. Grounds for refusal to license. The authority may refuse to is-
23 sue a license to any person who, or to any partnership or corporation in
24 which any member or principal officer or director:

25 1. is under twenty-one years of age;

26 2. is not a citizen of the United States or an alien lawfully admitted
27 for permanent residence in the United States;

28 3. has been convicted of a felony, other than the sale, possession,
29 importation, distribution or manufacture of a controlled substance prior
30 to the enactment of this chapter;

31 4. has previously had a license, issued pursuant to this chapter,
32 revoked for cause;

33 5. has had a license, issued pursuant to the alcoholic beverage con-
34 trol law, revoked for cause;

35 6. seeks to operate a business pursuant to this chapter at a premises
36 which is not in compliance with all state and local health, occupancy
37 and zoning laws and regulations; and

38 7. is violating any of the provisions of this chapter or has been con-
39 victed of violating any provision of this chapter.

40 § 34. Revocation of licenses for cause. 1. Every license issued pur-
41 suant to this chapter may be revoked, cancelled or suspended for:

42 (a) any violation of the provisions of this chapter; or

43 (b) any corporate change in the stockholders, stockholdings, officers
44 or directors of a licensee which brings the licensee into violation of
45 the provisions of this chapter.

46 2. Where the authority has revoked the license of any premises, the
47 authority may, in its discretion, refuse to issue a license for such
48 premises, any part of the building containing such premises and con-
49 nected therewith for a period of two years after such revocation.

50 § 35. Licenses; general provisions. 1. No license issued pursuant to
51 this chapter shall be transferrable or assignable, except that the
52 license of a sole proprietor may be transferred to a corporation when
53 such sole proprietor creates such corporation and is the sole stockhol-
54 der, officer and director of the corporation. Every such transfer shall
55 be subject to the approval of the authority.

1 2. No license shall be pledged or deposited as collateral to secure
2 any loan or upon any other condition. Every such pledge, deposit and
3 contract providing therefor shall be void.

4 3. Every license issued pursuant to this chapter shall include, in ad-
5 dition to any other information required by the authority, the following
6 information:

7 (a) the name of the licensee;

8 (b) the type of license and activities authorized by such license;

9 (c) identification of the licensed premises; and

10 (d) a statement that such license shall not be deemed to be property
11 or a vested right and that such license may be revoked at any time pur-
12 suant to law.

13 4. The authority shall provide each licensee a statement of the causes
14 for which licenses may be revoked. Such statement shall be prepared by
15 the authority and delivered to the licensee with this license or as soon
16 thereafter as may be practicable. Any amendments thereto shall also be
17 sent by the authority to all licensees as soon as may be practicable af-
18 ter such amendments. Failure to send such statements or changes therein,
19 or failure to receive such statements or changes, or any misstatement or
20 error contained in such statements or amendments shall not be an excuse
21 or justification for any violation of law, or prevent, remit or decrease
22 any penalty or forfeiture therefor.

23 5. Every license issued pursuant to this chapter shall be enclosed in
24 a suitable wood or metal frame having a clear glass space and a substan-
25 tial wood or metal back so that the whole of the license may be seen
26 therein. Such license shall be posted and at all times displayed in a
27 conspicuous place in the room where the controlled substance business
28 is carried on, so that all persons visiting such place may readily see
29 such license. It shall be unlawful for any person holding a license to
30 post such license or to permit such license to be posted upon premises
31 other than the premises licensed or upon where the sale, distribution or
32 manufacture of controlled substances is being carried on by any person
33 other than the licensee, or knowingly to deface, destroy or alter any
34 such license in any respect. Whenever a license shall be lost or des-
35 troyed without default on the part of the licensee, his agent or em-
36 ployees, a duplicate license in lieu thereof may be issued by the
37 authority in its discretion and in accordance with such rules and regu-
38 lations and the payment of such fees, not exceeding twenty-five dollars,
39 as it may prescribe.

40 6. Each manufacturer shall keep and maintain upon the licensed pre-
41 mises, adequate books and records of all transactions involving the con-
42 trolled substance business transacted by such manufacturer, which shall
43 show the amount of controlled substance precursors purchased by such
44 manufacturer together with the names, license numbers, if applicable,
45 the places of business of the persons from whom the controlled sub-
46 stances or controlled substance precursors were purchased and the
47 amount involved in such purchases, as well as the amount of controlled
48 substances sold by such manufacturer together with the names, addresses,
49 and license numbers of such purchasers. Each sale shall be recorded
50 separately on a numbered invoice, which shall have printed thereon the
51 number, the name of the licensee, the address of the licensed premises,
52 and the current license number. Such manufacturer shall deliver to the
53 purchaser a true duplicate invoice stating the name and address of the
54 purchaser, the quantity of controlled substances, description by type
55 and price, and a true, accurate and complete statement of the terms and
56 conditions on which such sale is made. Such books, records and invoices

1 shall be kept for a period of two years and shall be available for in-
2 spection by any authorized representative of the authority.

3 7. Every licensed wholesaler shall keep and maintain upon the licensed
4 premises, adequate books and records of all transactions involving the
5 controlled substance business transacted by such wholesaler, which shall
6 show the amount of controlled substances purchased by such wholesaler
7 together with the names, license numbers and places of business of the
8 persons from whom such controlled substances were purchased and the
9 amount involved in such purchases, as well as the amount of controlled
10 substances sold by such wholesaler together with the names, addresses,
11 and license numbers of such purchasers. Each sale shall be recorded
12 separately on a numbered invoice, which shall have printed thereon the
13 number, the name of the licensee, the address of the licensed premises,
14 and the current license number. Such wholesaler shall deliver to the
15 purchaser a true duplicate invoice stating the name and address of the
16 licensed premises, and the current license number. Such wholesaler shall
17 deliver to the purchaser a true duplicate invoice stating the name and
18 address of the purchaser, the quantity of controlled substances,
19 description by type and price, and a true, accurate and complete state-
20 ment of the terms and conditions on which such sale is made. Such books,
21 records and invoices shall be kept for a period of two years and shall
22 be available for inspection by any authorized representative of the
23 authority.

24 8. Every licensed retailer shall keep and maintain upon the licensed
25 premises, adequate books and records of all transactions involving the
26 controlled substance business transacted by such retailer, which shall
27 show the amount of controlled substances purchased by such retailer
28 together with the names, license numbers and places of business of the
29 persons from whom such controlled substances were purchased, and the
30 amount involved in such purchases, as well as the amount of controlled
31 substances sold by such retailer and the amount involved in each sale.
32 Such books and records shall be available for inspection by any
33 authorized representative of the authority.

34 § 36. Addiction care centers. 1. A physician, licensed to practice
35 medicine in this state, may apply for a license to dispense controlled
36 substances of high potency in conjunction with the provision of treat-
37 ment or maintenance at an addiction care center operated by such
38 physician.

39 2. Upon satisfactory proof, to the authority, of the creation of an
40 addiction care center by a physician, the authority may issue a license
41 to dispense high potency controlled substances to such addiction care
42 center.

43 3. The authority shall provide for the distribution of controlled sub-
44 stances at addiction care centers and such controlled substances shall
45 only be distributed pursuant to the supervision of the physician operat-
46 ing an addiction care center.

47 4. Psychologists, registered nurses and physician assistants, licensed
48 to practice in this state, employed at an addiction care center and un-
49 der the supervision of the physician operating such center, may dispense
50 controlled substances pursuant to the physician's license.

51 5. No controlled substance shall be distributed pursuant to this sec-
52 tion to any person who is not receiving treatment at an addiction care
53 center and whose course of treatment has been determined to include the
54 administering of controlled substances.

1 6. Nothing in this chapter shall be deemed to prohibit or discourage
2 the provision of drug-free treatment at any addiction care center or for
3 any patient thereof.

4 § 37. Surrender of license. 1. Within three days of the revocation of
5 a license pursuant to this chapter, the authority shall mail by certi-
6 fied mail a notice of such revocation to the licensee at the address of
7 the licensed premise. Such notice shall also be mailed to the owner of
8 the licensed premises. Upon giving notice of revocation to the licensee,
9 the authority shall serve written notice of the revocation upon the ap-
10 propriate police department having jurisdiction over the licensed
11 premises. Such notice to the police shall include a statement of the
12 number of the revoked license, the name and address of the licensee, the
13 address of the licensed premises and the date of the revocation of the
14 licensee.

15 2. Upon receipt of a notice of revocation, the licensee shall immedi-
16 ately surrender his or her license to the authority. If such license is
17 not surrendered within two days of the receipt of such notice of revoca-
18 tion, the authority shall issue a written demand to the appropriate
19 police department for the seizure of such license.

20 § 38. Discounts for bulk purchases; prohibited. No person licensed
21 pursuant to this chapter shall:

22 1. discriminate in prices charged, directly or indirectly, between one
23 wholesaler and another wholesaler, between one retailer and another
24 retailer, or between one consumer and another consumer purchasing a con-
25 trolled substance bearing the same brand or trade name and of like
26 purity and quality;

27 2. grant any discount, directly or indirectly, rebate, free goods, al-
28 lowance or other inducement of any kind based upon the quantity of con-
29 trolled substances purchased whether on one occasion or over a period of
30 time;

31 3. provide free samples, two for one or other types of discounts in-
32 tended to induce the purchase of controlled substances; or

33 4. sell, offer to sell or solicit an order for any controlled sub-
34 stance at a price less than cost. For the purposes of this subdivision,
35 "cost" shall mean the price of such controlled substance to the seller
36 plus a profit.

37 § 39. Manufacturers and wholesalers not to be interested in retail
38 premises. No manufacturer or wholesaler, licensed pursuant to this chap-
39 ter, shall:

40 1. have an interest, directly or indirectly, in any premises licensed
41 to sell controlled substances at retail or any business licensed to sell
42 controlled substance at retail, whether through stock ownership, direc-
43 torship, mortgage or lien on personal or real property;

44 2. make or cause to be made any loan to any person licensed to manu-
45 facture or sell controlled substances at wholesale or retail;

46 3. make any gift or render any service, directly or indirectly, to any
47 persons licensed pursuant to this chapter, which may tend to influence
48 such licensee to purchase the product of such manufacturer or whole-
49 saler;

50 4. enter into any contract with any person licensed to sell at retail
51 whereby the retailer agrees to limit his or her sales to controlled sub-
52 stances manufactured or sold by one or more wholesalers or
53 manufacturers. Every such contract shall be void and subject all licen-
54 sees involved to revocation of their licenses; or

1 5. require or compel retailers to purchase certain controlled sub-
2 stances in order to be able to purchase a particular controlled
3 substance.

4 § 40. House-to-house sales prohibited. 1. No licensee or any agent or
5 employee thereof shall peddle controlled substances from house-to-house.

6 2. No licensee shall employ any canvasser or solicitor for the purpose
7 of receiving an order from any consumer for any controlled substance at
8 the residence or place of business of such consumer, or at any public
9 way or park, or at any private business not licensed for the sale of
10 controlled substances. However, there shall be no prohibition of the
11 delivery of controlled substances to a consumer by a licensee based on
12 an order made at the licensee's place of business, in person or by
13 telephone.

14 3. This section shall not prohibit the solicitation by a wholesaler of
15 an order from a retail licensee, or by a manufacturer of an order from a
16 wholesaler.

17 § 41. Advertising. 1. No person shall send or cause to be sent into
18 the state nor shall any person issue, publish or cause to be issued or
19 published in the state any letter, postcard, circular, newspaper, pamph-
20 let, order kit, order form, invitation to order, price list or publica-
21 tion of any kind containing an advertisement or solicitation of any or-
22 der for any controlled substance, unless such person is duly licensed to
23 traffic in controlled substances.

24 2. No sign, of any kind, printed, painted or electric, advertising any
25 controlled substance shall be permitted on the exterior of a licensed
26 premises, except by permission of the authority.

27 3. Signs may be displayed in the interior of premises licensed to
28 traffic in controlled substances, provided that:

29 (a) Such signs do not have a utility or secondary use or value aside
30 from their actual advertising value.

31 (b) Such signs are not displayed in a window display of such premises.

32 (c) Such signs shall not contain:

33 (i) any statement, illustration, design, device or representation that
34 is false or misleading;

35 (ii) any statement that is disparaging of a competitor's product;

36 (iii) any statement, design, device, matter or representation which is
37 obscene or indecent or which is obnoxious or offensive to the commonly
38 and generally accepted standards of fitness and good taste;

39 (iv) any statement which is inconsistent with the label on the pro-
40 duct;

41 (v) any statement, design or device which represents or which tends to
42 create or give the impression that the use of the controlled substance
43 has curative or therapeutic effects;

44 (vi) any statement of or reference to price, which is deceptive or
45 misleading or tends to deceive or mislead;

46 (vii) any illustration which is not dignified, modest and in good
47 taste;

48 (viii) any scene in which is portrayed a child or objects (such as
49 toys) suggestive of the presence of a child or in any manner portrays
50 the likeness of a child or contains the use of figures or symbols which
51 are traditionally associated with children;

52 (ix) any statement, design, device or representation relating to any
53 refund, exchange or money back guarantee, irrespective of truth or
54 falsity;

55 (x) any portrayal of an athlete or athletes or athletic events in such
56 manner as to imply that use of controlled substances improves athletic

1 prowess or physical stamina, or any portrayal or suggestion that ath-
2 letes recommend using controlled substances;

3 (xi) the name of or depiction of any biblical characters;

4 (xii) any reference by name or other identification to any retailer
5 selling the products advertised;

6 (xiii) any statement, design, device or representation of or relating
7 to analyses, standards or tests, irrespective of falsity which the
8 authority finds to be likely to mislead the consumer.

9 § 42. Limitation on liability. 1. No person licensed pursuant to this
10 chapter shall be held civilly or criminally liable in any cause of ac-
11 tion arising from injury to the purchaser or ultimate consumer of a con-
12 trolled substance, except in cases of fraudulent and deceptive transac-
13 tions or violations of the provisions of this chapter.

14 2. No person licensed pursuant to this chapter shall be held civilly
15 or criminally liable in any cause of action arising from injury to a
16 third party proximately caused by a purchaser or the ultimate consumer
17 of a controlled substance, except:

18 (a) in cases of fraudulent or deceptive transactions;

19 (b) in cases of violations of the provisions of this chapter; or

20 (c) when the licensee sells controlled substances to a purchaser who
21 was accompanied by a person who was visibly intoxicated and a reasonable
22 person would conclude such person posed a danger to himself or herself
23 or to others.

24 3. In any civil cause of action against the ultimate consumer of a
25 controlled substance, wherein the action arises out of behavior by the
26 consumer while under the influence or otherwise impaired by use of con-
27 trolled substances, the consumer shall be barred from raising any
28 defense arising out of his or her use of controlled substances, or that
29 such use or addiction in any way mitigates liability therefor.

30 § 43. Packaging requirements. Every controlled substance sold at
31 retail shall be sold as follows:

32 1. Controlled substances, except those sold in liquid form, will be
33 sold in separate packages which will contain no more than ten usual
34 doses, and the outer package will be child resistant. The inner package
35 will bear labels on both sides, and each separate inner package will
36 contain no more than the usual dose. The authority shall determine the
37 amount of every controlled substance which shall constitute a usual
38 dose.

39 2. Controlled substances sold in liquid form, whether for injection or
40 oral administration, will be sold in separate packages which will con-
41 tain no more than ten usual doses, and the outer package will be child
42 resistant. The individual dose vials will contain no more than the usual
43 dose. Usual doses for various controlled substances shall be determined
44 by the authority.

45 § 44. Labeling requirements. 1. It shall be unlawful for any person to
46 package, distribute, sell or offer for sale any controlled substance the
47 package of which fails to bear a label as required by the provisions of
48 this section.

49 2. The labels required by subdivision four of this section shall be
50 rotated on a quarterly basis by every person who packages controlled
51 substances in alternate sequence on the packages of each type of con-
52 trolled substance sold by such person in accordance with a plan submit-
53 ted to the authority.

54 3. Each label statement required by this section shall be printed on
55 the top of the outer packaging and on both sides of the inner individual
56 dosage packaging. The word "WARNING" shall appear in capital letters in

- 1 at least twelve point type and all other labeling shall be in at least
2 ten point type. All letters in the label shall appear in conspicuous and
3 legible type in contrast by typography, layout and color with all other
4 printed material on the package and the warning shall be enclosed by a
5 black border one-sixteenth of an inch thick and at least one-quarter of
6 an inch from the print.
- 7 4. Controlled substance packages shall bear one of the following
8 labels:
- 9 (a) Depressants
- 10 (i) WARNING: This drug is addictive. You may not be able to quit using
11 it.
- 12 (ii) WARNING: This drug may cause seizures, convulsions, and death.
- 13 (iii) WARNING: This drug causes respiratory failure which means that
14 you might stop breathing.
- 15 (iv) WARNING: If you are pregnant, this drug may cause serious birth
16 defects in your child, including missing limbs and brain damage.
- 17 (v) WARNING: Do not operate a car, truck, plane, boat, motorcycle or
18 heavy machinery while under the influence of this drug.
- 19 (b) Stimulants
- 20 (i) WARNING: This drug is addictive. You may not be able to quit using
21 it.
- 22 (ii) WARNING: This drug may cause seizures, convulsions, coma, stroke
23 and death.
- 24 (iii) WARNING: This drug may induce panic attacks and paranoia.
- 25 (iv) WARNING: If you are pregnant, this drug may cause serious birth
26 defects in your child, including missing limbs and brain damage.
- 27 (v) WARNING: Do not operate a car, truck, plane, boat, motorcycle or
28 heavy machinery while under the influence of this drug.
- 29 (c) Cocaine
- 30 (i) WARNING: This drug is addictive. You may not be able to quit using
31 it.
- 32 (ii) WARNING: This drug may cause seizures, convulsions, coma, stroke
33 and death.
- 34 (iii) WARNING: This drug may induce panic attacks and paranoia.
- 35 (iv) WARNING: If you are pregnant, this drug may cause serious birth
36 defects in your child, brain damage and low birth weight.
- 37 (v) WARNING: If you are pregnant, your baby may be born addicted.
- 38 (d) Opiates
- 39 (i) WARNING: This drug is highly addictive. You may not be able to
40 stop using it.
- 41 (ii) WARNING: Sharing needles transmits the AIDS virus. The AIDS virus
42 is fatal.
- 43 (iii) WARNING: This drug causes respiratory failure which means that
44 you might stop breathing.
- 45 (iv) WARNING: An overdose of this drug will kill you.
- 46 (v) WARNING: If you are pregnant, your baby may be born addicted.
- 47 (vi) WARNING: Do not operate a car, truck, plane, boat, motorcycle or
48 heavy machinery while under the influence of this drug.
- 49 (e) Hallucinogens
- 50 (i) WARNING: This drug causes psychosis, insanity and bizarre and
51 dangerous behavior.
- 52 (ii) WARNING: This drug may lead to suicide.
- 53 (iii) WARNING: You may have a flashback even after you have stopped
54 using this drug.
- 55 (iv) WARNING: This drug can cause panic attacks, paranoia, and ter-
56 rifying hallucinations.



1 (v) WARNING: Do not operate a car, truck, plane, boat, motorcycle or
2 heavy machinery while under the influence of this drug.
3 (f) Marijuana and hashish
4 (i) WARNING: This drug can cause panic attacks and paranoia.
5 (ii) WARNING: This drug can lead to lethargy and lack of motivation.
6 (iii) WARNING: This drug can destroy your sex drive.
7 (iv) WARNING: This drug can cause a toxic psychosis with hallucina-
8 tions, loss of contact with reality and loss of insight.
9 (v) WARNING: This drug causes lung cancer.
10 (vi) WARNING: Do not operate a car, truck, plane, boat, motorcycle or
11 heavy machinery while under the influence of this drug.
12 5. Every package containing a controlled substance shall be labeled
13 with a complete and detailed description of the contents, including
14 purity percentage and any inert or active additives.
15 § 45. Prohibited sales. 1. No person shall sell, deliver or give away
16 or cause or permit or procure to be sold, delivered or given away any
17 controlled substances to any person, actually or apparently, under the
18 age of twenty-one years.
19 2. Neither such person so refusing to sell or deliver under this sec-
20 tion nor his employer shall be liable in any civil or criminal action or
21 for any fine or penalty based upon such refusal, except that such sale
22 or delivery shall not be refused, withheld from or denied to any person
23 on account of race, creed, color or national origin. In any proceeding
24 pursuant to subdivision one of this section, it shall be an affirmative
25 defense that such person had produced a photographic identification card
26 apparently issued by a governmental entity or institution of higher edu-
27 cation and that the controlled substance had been sold, delivered or
28 given to such person in reasonable reliance upon such identification.
29 § 46. Procuring controlled substances for persons under the age of
30 twenty-one years. Any person who misrepresents the age of a person un-
31 der the age of twenty-one years for the purpose of inducing the sale of
32 any controlled substance, as defined in this chapter to such person, is
33 guilty of an offense and upon conviction thereof shall be punished by a
34 fine of not more than two hundred dollars, or by imprisonment for not
35 more than five days, or by both such fine and imprisonment.
36 § 47. Offense for one under age twenty-one years to purchase or at-
37 tempt to purchase a controlled substance through fraudulent means. 1.
38 Any person under the age of twenty-one years who presents or offers to
39 any licensee under this chapter, or to the agent or employee of such
40 licensee, any written evidence of age which is false, fraudulent or not
41 actually his own, for the purpose of purchasing or attempting to pur-
42 chase any controlled substance, may be arrested or summoned and be ex-
43 amined by a magistrate having jurisdiction on a charge of illegally pur-
44 chasing or attempting to illegally purchase a controlled substance. If a
45 determination is made sustaining such charge the court or magistrate
46 shall release such person on probation for a period of not exceeding one
47 year, and may in addition impose a fine not exceeding one hundred
48 dollars.
49 2. No such determination shall operate as a disqualification of any
50 such person subsequently to hold public office, public employment, or as
51 a forfeiture of any right or privilege or to receive any license granted
52 by public authority; and no such person shall be denominated a criminal
53 by reason of such determination, nor shall such determination be deemed
54 a conviction.

1 § 48. Violation of article a class E felony. The violation of any
 2 provision of this article, other than such which may have been otherwise
 3 specifically provided, shall be a class E felony.

ARTICLE 4

MISCELLANEOUS PROVISIONS

6 Section 50. Reporting requirements.

7 51. Controlled substance addiction not a disability.

8 52. Treatment of controlled substance addiction.

9 53. Construction of chapter.

10 54. Invalidity; effect of.

11 § 50. Reporting requirements. The authority shall report to the
 12 legislature not later than one year after the effective date of this
 13 chapter, as to the effectiveness of this chapter, including:

14 1. changes in crime rates;

15 2. numbers of licensed controlled substance manufacturers, dis-
 16 tributors, wholesalers and retailers;

17 3. quantities of each category of controlled substances sold pursuant
 18 to this chapter;

19 4. the numbers and types of convictions for violations of the provi-
 20 sions of this chapter and the penalties imposed therefor;

21 5. changes in the number of people who are incarcerated;

22 6. estimates of number of people using controlled substances in each
 23 category, with a breakdown by frequency of use; and

24 7. controlled substance related motor vehicle and industrial acci-
 25 dents, and hospital admissions.

26 § 51. Controlled substance addiction not a disability. Notwithstanding
 27 any other law, rule or regulation to the contrary, under no circum-
 28 stances shall addiction to a controlled substance be considered a
 29 disability.

30 § 52. Treatment of controlled substance addiction. 1. The authority
 31 shall have the power and duties to coordinate, direct and fund all pro-
 32 grams providing treatment and counseling for addiction to controlled
 33 substances. Such treatment and counseling shall include, but not be lim-
 34 ited to: methadone maintenance and detoxification, cocaine withdrawal,
 35 support groups, emergency services, and hotlines for controlled sub-
 36 stance users who become dysphoric, develop uncontrollable cravings, or
 37 signs or symptoms of toxicity or overdose.

38 2. The authority shall use the moneys of the controlled substance
 39 treatment fund, established pursuant to section eighty-nine-d of the
 40 state finance law, to carry out the provisions of this section.

41 § 53. Construction of chapter. This chapter shall be so construed as
 42 to assure that the policy of this state and the intent and purpose
 43 thereof will be carried out.

44 § 54. Invalidity; effect of. If any part, provision or section of this
 45 chapter or the application thereof to any person or circumstances shall
 46 be held invalid by any court of competent jurisdiction, the remainder
 47 thereof or the application of such part, provision or section to any
 48 other person or circumstances shall not be affected thereby.

49 § 3. Section 3 of the alcoholic beverage control law is amended by
 50 adding two new subdivisions 7-c and 20-a to read as follows:

51 7-c. "Concentrated cannabis" shall mean:

52 (a) the separated resin, whether crude or purified, obtained from a
 53 plant of the genus Cannabis; or

54 (b) a material, preparation, mixture, compound or other substance
 55 which contains more than two and one-half percent by weight of delta-9



1 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering sys-
2 tem, or delta-1 tetrahydrocannabinol or its isomer, delta-1 (6) monoter-
3 pene numbering system.

4 20-a. "Marijuana" means and includes all parts of the plant of the
5 genus Cannabis, whether growing or not; the seeds thereof; the resin ex-
6 tracted from any part of the plant; and every compound, manufacture,
7 salt, derivative, mixture or preparation of the plant, its seeds or
8 resin. It does not include the mature stalks of the plant, fiber pro-
9 duced from the stalks, oil or cake made from the seeds of the plant, any
10 other compound, manufacture, salt, derivative, mixture or preparation of
11 the mature stalks (except the resin extracted therefrom), fiber, oil or
12 cake, or the sterilized seed of the plant which is incapable of
13 germination.

14 § 4. Subdivision 13 of section 17 of the alcoholic beverage control
15 law is renumbered subdivision 15 and two new subdivisions 13 and 14 are
16 added to read as follows:

17 13. To regulate the sale, distribution and cultivation of marijuana
18 and concentrated cannabis to the extent which the controlled substances
19 authority is authorized to regulate controlled substances pursuant to
20 the controlled substance law. Provided, however, only persons licensed
21 to sell liquor for consumption off the premises may engage in the retail
22 sale of marijuana and concentrated cannabis.

23 14. To regulate the sale and distribution of the controlled substances
24 designated by the controlled substances authority as being subject to
25 the provisions of this chapter pursuant to section thirty of the con-
26 trolled substances law. Such regulation shall be exercised to the same
27 extent provided pursuant to the controlled substances law. Provided,
28 however, only persons licensed to sell liquor for consumption off the
29 premises may engage in the retail sale of such controlled substances.

30 § 5. Subdivision 3 of section 63 of the alcoholic beverage control law
31 is amended to read as follows:

32 3. Such license shall in form and in substance be a license to the
33 person specifically designated therein to sell liquor in the premises
34 specifically licensed at retail for off-premise consumption and shall
35 also include the privilege to sell wine, marijuana, concentrated canna-
36 bis and certain controlled substances under the same terms and condi-
37 tions without the payment of any additional fee.

38 § 6. Articles 220 and 221 of the penal law are REPEALED.

39 § 7. Article 33 of the public health law is REPEALED.

40 § 8. Article 39 of the general business law is REPEALED.

41 § 9. Section 2.10 of the criminal procedure law is amended by adding a
42 new subdivision 61 to read as follows:

43 61. Inspectors appointed by the controlled substances authority, pur-
44 suant to section fifteen of the controlled substance law; provided, how-
45 ever, that nothing in this subdivision shall be deemed to authorize such
46 officer to carry, possess, repair or dispose of a firearm unless the ap-
47 propriate license therefor has been issued pursuant to section 400.00 of
48 the penal law.

49 § 10. The tax law is amended by adding a new section 1105-C to read as
50 follows:

51 § 1105-C. Additional sales tax on controlled substances. (a) In addi-
52 tion to the sales taxes imposed pursuant to section eleven hundred five
53 of this part, there shall be paid an additional sales tax of five per-
54 cent upon every sale of a controlled substance sold pursuant to the con-
55 trolled substance law or alcoholic beverage control law.

1 (b) All moneys received by the commissioner pursuant to this section
2 shall be deposited in the controlled substance treatment fund, esta-
3 blished pursuant to section eighty-nine-d of the state finance law.

4 § 11. The state finance law is amended by adding a new section 89-d to
5 read as follows:

6 § 89-d. Controlled substance treatment fund, 1. There is hereby esta-
7 blished in the joint custody of the comptroller and the commissioner of
8 taxation and finance a special revenue fund to be known as the con-
9 trolled substance treatment fund.

10 2. Such fund shall consist of all moneys appropriated for the purpose
11 of such fund and all moneys transferred to such fund pursuant to law in-
12 cluding section eleven hundred five-C of the tax law and paragraph (h)
13 of subdivision two of section thirty of the controlled substance law.
14 Any interest earned by the investment of moneys in such fund shall be
15 added to such fund, become a part of such fund, and be used for the pur-
16 pose of such fund.

17 3. Moneys of such fund shall be available for appropriation and allo-
18 cation only to the controlled substances authority for the purposes of
19 carrying out the provisions of section fifty-five of the controlled sub-
20 stance law.

21 4. The moneys of the fund shall be paid out on the audit and warrant
22 of the comptroller on vouchers certified or approved by the chairman of
23 the controlled substances authority or his or her duly designated
24 representative.

25 § 12. This act shall take effect on the first day of November next
26 succeeding the date on which it shall have become a law; provided, how-
27 ever, that the provisions of article 2 of the controlled substance law,
28 as added by section two of this act, and section four of this act, shall
29 take effect immediately, and the controlled substances authority and the
30 state liquor authority shall promulgate all necessary rules and regula-
31 tions to carry out the provisions of sections two, four and five of this
32 act immediately and may immediately receive and entertain such applica-
33 tions for licenses and take such other steps as may be necessary or ap-
34 propriate to permit sections two, four and five of this act to become
35 effective and operative on their effective date.

REPEAL NOTE.--Article 220 of the penal law, which is repealed by sec-
tion six of this act, made the sale or possession of a controlled sub-
stance a criminal offense. Article 221 of the penal law, which is
repealed by section six of this act, made the sale or possession of
marijuana a criminal offense. Article 33 of the public health law, as
repealed by section seven of this act, regulated use and development of
controlled substances. Article 39 of the general business law, which is
repealed by section eight of this act, restricted the sale of drug-
related paraphernalia.