

Excerpt from
FY 2021 NEW YORK STATE EXECUTIVE BUDGET
REVENUE ARTICLE VII LEGISLATION
MEMORANDUM IN SUPPORT

Part BB – Enact the Cannabis Regulation and Taxation Act

Purpose:

This bill would create and amend existing laws to legalize adult-use cannabis, consolidate governance of all forms of cannabis and create a regulatory structure to oversee the licensure, cultivation, production, distribution, sale and taxation of cannabis within New York State.

Summary of Provisions and Statement in Support:

This bill would create the cannabis law, which would merge existing law for medical cannabis and cannabinoid hemp and create a new article for adult-use. Regulation of cannabis benefits public health by enabling government oversight of the production, testing, labeling, distribution, and sale of cannabis. The creation of a regulated cannabis program would enable New York State to control licensure, ensure quality control and consumer protection, determine product potency, set age and quantity restrictions and do so through a comprehensive regulatory framework.

This bill would establish the Office of Cannabis Management (OCM) within the Division of Alcohol Beverage Control, governed by a five-member Cannabis Control Board overseeing the adult-use, medical and cannabinoid hemp industries. The powers of this new office include but are not limited to: the establishment of cultivation and processing standards; the licensure of all business entities in the production and distribution chain; the inspection and enforcement of program standards and the development and issuance of program regulations.

Article 3 governs New York State's Medical Cannabis Program, designed to comprehensively regulate the manufacture, sale and use of medical cannabis while striking a balance between potentially relieving the pain and suffering of those in desperate need of treatment and protecting the public against risks to health and safety. The Office of Cannabis Management will supervise the continued expansion of the medical cannabis program and promote reforms that expand patient access, product affordability and encourage further medical cannabis research opportunities.

Article 4 of the bill would regulate and control the cultivation, processing, manufacturing, distribution and sale of cannabis products for adults over 21 years of age. This bill would utilize a three-tier market structure (similar to the alcohol model) for the adult-use cannabis industry. In general, the model prohibits vertical integration and would be coupled with licensing limits and supply management to control market concentration and encourage social equity applicant participation.

This bill would establish a robust social and economic equity program to actively encourage members of communities who have been disproportionately impacted by the policies of cannabis prohibition to participate in the new industry through the implementation of a social and economic equity plan – providing technical assistance, training, loans and mentoring to qualified social and economic equity applicants.

Article 5 of the bill would provide a regulatory framework to comprehensively regulate cannabinoid hemp (CBD products) including the licensing of processors and retailers of cannabinoid hemp. The bill provides production standards, testing requirements and product labeling provisions to safe guard the quality of cannabinoid hemp products available on the market. The growth and cultivation of all hemp will continue to be regulated by the Department of Agriculture and Markets.

This bill would amend Tax Law to add a new Article 20-C, Tax on Adult-Use Cannabis Products, to impose three taxes. The first tax is imposed on the cultivation of cannabis at the rate of \$1 per dry weight gram of cannabis flower, \$0.25 per dry weight gram of cannabis trim, and \$0.14 per gram of wet cannabis. The second tax is imposed on the sale by any person to a retail dispensary at the rate of 20 percent of the invoice price. The third tax is imposed on the same sale by any person to a retail dispensary at the rate of 2 percent of the invoice price but collected in trust for and on account of the county in which the retail dispensary is located. Every person to whom a cannabis flower, cannabis trim, or wet cannabis is sold or transferred to, as well as any person registered as a microbusiness, cooperative, or registered organization under cannabis law would be required to apply to the Commissioner of Taxation and Finance for a Certificate of Registration prior to commencing business and renew such registration every two years.

Revenues from the State cannabis taxes shall be deposited in the New York State Cannabis Revenue Fund and expended for the following purposes: administration of the regulated cannabis program, data gathering, monitoring and reporting, the governor's traffic safety committee, social and economic equity plan of the office of cannabis management, substance abuse, harm reduction and mental health treatment and prevention, public health education and intervention, research on cannabis uses and applications, program evaluation and improvements, and any other identified purpose recommended by the director of the Office of Cannabis Management and approved by the Director of the Budget.

Counties and cities with a population of 100,000 or more would have the opportunity to opt-out of the provisions of Article 4 of the bill with the passage of a local law, ordinance or resolution by a majority vote of their governing body. Counties, cities, towns, and

villages will be able to dictate the hours of operation and location of licensed adult-use cannabis retail dispensaries within their jurisdiction, through local zoning powers.

The bill also would create conforming changes to a number of different laws including amending the public health law, in relation to the description of cannabis; the vehicle and traffic law, in relation to making technical changes regarding the definition of cannabis and the enforcement of driving violations; the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; the tax law, in relation to providing for the levying of taxes on cannabis; the criminal procedure law, the civil practice law and rules, the general business law, and the state finance law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2021 Executive Budget because it would increase All Funds revenue by \$20 million in FY 2021, \$63 million in FY 2022, \$85 million in FY 2023, \$141 million in FY 2024, and \$188 million in FY 2025. The FY 2021 Executive Budget also includes \$13 million in new funding to support the operations of the new Office of Cannabis Management.

Effective Date:

This bill would take effect immediately; provided, however, that sections 92, 93 and 95 of article 5 in section two of the act shall take effect January 1, 2021, that the amendments to the penal law made by section fifty-five of this act shall not affect the repeal of such article and shall be deemed to be repealed therewith; provided further that the amendments to section 89-h of the state finance law made by section fifty-eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided further, that the amendments to section 221.00 of the penal law made by section fifteen of this act shall be subject to the expiration of such section when upon such date the provisions of section fifteen-a of this act shall take effect; provided, however, that the amendments to subdivision 2 of section 3371 of the public health law made by section sixty-one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; provided further, that the amendments to subdivision 3 of section 853 of the general business law made by section sixty-two of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith; and provided further, that the amendments to subdivision 5 of section 410.91 of the penal law made by section sixty-three of this act shall be subject to the expiration and reversion of such subdivision when upon such date the provisions of section sixty-three-a of this act shall take effect; provided however that sections 37- 38 of this act shall take effect on April 1, 2021 and shall apply on and after such date to: (1) the sale or transfer of cannabis flower, cannabis trim or wet cannabis to any person; (2) cultivation of cannabis flower, cannabis trim or wet cannabis by a person licensed under the cannabis law as a microbusiness, cooperative or registered organization; (3) the sale or transfer of adult use cannabis products to a retail dispensary; and (4) the sale of adult-use cannabis products to a consumer by a

retail dispensary operated by a person licensed under the cannabis law as registered organization.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.